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The Solicitors' Journal

VOL. LXXIX. **Saturday, December 14, 1935.** No. 50

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Current Topics.

New Law, 1936.

Among statutes coming into force on 1st January, 1936, are the Money Payments (Justices Procedure) Act, 1935, and the Counterfeit Currency (Convention) Act, 1935. The former has already been treated at some length in these columns; the latter gives effect to the International Convention for the Suppression of Counterfeiting Currency signed at Geneva on 20th April, 1929, applies to foreign coin certain enactments relating to British coin and assimilates the penalties for importing and exporting counterfeit coin. Section 4 of the Finance Act, 1935, which contains a number of amendments with reference to the classification of certain vehicles for the purposes of duty also operates from 1st January, 1936, except so far as it relates to snow ploughs, its provisions in regard to these having come into force on 1st October last. It is further to be noted that any instrument executed on or after 1st January next will, in so far as it purports to attach to the enjoyment of any property by a woman any restriction upon anticipation or alienation which could not have been attached to the enjoyment of that property by a man, be void—Law Reform (Married Women and Tortfeasors) Act, 1935. The ten-year period for the voluntary extinguishment of manorial incidents ends on 31st December, 1935, as noted in our last issue (79 Sol. J. 911). Rules and Orders operating from 1st January, 1936, are the Summary Jurisdiction Rules, 1935 (79 Sol. J. 867, 882), the Sanitary Officers (Outside London) Regulations, 1935, and the Sanitary Officers (London) Regulations, 1935 (79 Sol. J. 886). Finally, the Motor Vehicles (Direction Indicator and Stop Light) Regulations, 1935, come into operation on 1st January, 1936. The contents of these regulations were indicated in a "Current Topic" (appearing at 79 Sol. J. 630). The regulations relate to all motor vehicles, other than tramcars and trolley vehicles, registered for the first time under the Roads Act, 1920, on or after the day on which they come into force.

Appeals to the Privy Council.

Presiding over the First Division of the Judicial Committee of the Privy Council recently, the Lord Chancellor alluded to the conditions which must be present in cases from the Dominions before leave to appeal to the Board will be granted. The Board was anxious to make it clear, it was said, that they did not desire to encourage appeals from the Supreme Court of any one of the Dominions, or to enlarge the classes of cases in which such appeals were entertained. *Primâ facie*, the decision of the Supreme Court of Australia (the statement was made in connection with an appeal from that Dominion) or of the other Dominions was final. To justify the grant of special leave there must be a case involving some difficult question of law and affecting a matter of great public interest and importance. In a later petition, which, unlike that just referred to, was dismissed, reference was made to the principle in *Dillet's Case* 12 A.C. 459, which lays down that the Board will not review or interfere with the course of criminal proceedings unless it is shown that, by a disregard of the forms of legal process, or by some violation of the principles of natural justice, or otherwise, substantial and grave injustice has been done. Where there was a Court of Criminal Appeal, as in the present case (the petition was for leave to appeal from a decision of the Court of Criminal Appeal of Trinidad and Tobago), it would, the Lord Chancellor said, be more difficult to satisfy the Board that leave to appeal should be granted. The foregoing statements were reported in *The Times* of 6th December.

The Post Office, 1934-35.

Recent figures show a considerable increase in Post Office business, some of which may be attributed to the advertising campaign to which some allusion has been made in this column. The total value of Post Office transactions with the public during the year ended 31st March last amounted in round figures to £860,000,000—an increase of some £37,000,000 over the figures for 1933-1934, which itself showed a substantial improvement compared with that for the previous year. The number of letters, postcards, etc., dealt with last year reached a record total of some 69,000,000. The number of parcels and telegrams showed a decline, but this has since been reversed owing to reductions in charges which did not take effect until after the close of the financial year. Much of the advertising activity above mentioned has centred round the telephone business which has shown an accelerated rate of growth. Reduced charges and improving conditions of trade are, of course, also important factors in this improvement which may be indicated by the fact that the number of calls up to fourpence for last year and the preceding year were respectively 1,600 million and 1,500 million, respectively, while trunk calls for the same periods numbered 86,000,000 and 76,000,000. The number of telephones increased during the year was 162,800, compared with 87,900 during 1933-1934 and 68,500 in 1932-1933. There are now altogether 2,387,800 telephones, including 42,600 public call offices. Another branch of the Post Office business which (as does that just mentioned) reflects social conditions is the Savings Bank, at which the balances at credit of depositors at 31st December, 1934, including interest earned, amounted to nearly £355,000,000—a new high record, representing an increase of some £28,000,000. Savings Certificates invested continued to increase, the total at 31st March last being

approximately £393,000,000, against some £389,000,000 a year earlier, each amount being calculated at purchase price without interest accrued. According to a White Paper issued last week, the net surplus of the Post Office for the year was £11,876,817, the net receipts being £73,776,191. Deducting, for the last-mentioned amount £1,340,058, the net receipts from wireless receiving licences, and adding £2,659,276, at which the value of the work done for other Government Departments is estimated, the net revenue totals £75,095,409. During the same period expenditure amounted to £63,218,592, including £1,695,728, the value of work done without payment for the Post Office by other Government Departments.

Speed Limit Prosecutions: "Costs."

The Times recently gave particulars of an interesting outcome of the prosecution of an associate member of the Royal Automobile Club in a provincial court for exceeding the speed limit in a built-up area. The offender was fined 40s. and ordered to pay as costs the prosecuting advocate's fee of one guinea. On the same day, it was ascertained, forty-four similar cases were dealt with, in less than two hours, and in each instance the sum of one guinea was added to the fine as costs. The R.A.C. formed the opinion that such costs were not equitable, and accordingly laid the facts before the Home Office. Subsequent investigation revealed the fact that on the hearing of thirty cases of this character towards the end of November, in the same court, the advocate's fee was allowed in only two instances, and in each of these there were previous convictions.

Road Lighting and Accidents.

In the course of a recent address at the Public Works, Roads and Transport Congress, Mr. E. C. Lennox, the Vice-President of the Association of Public Lighting Engineers, while duly adverting to the difficulty of saying with precision how many of the present appalling number of accidents could be averted by the provision of efficient public lighting, expressed the opinion that if main roads were lighted so as to make the use of headlights unnecessary, accidents would be reduced by 10 per cent., and that the cost of such lighting would be counter-balanced by the sum which the community paid for accidents through insurance offices alone. The steadily increasing density of traffic, during the night hours as at other times, was alluded to. Heavy goods traffic carried on to an ever greater extent at night, together with the enormous development of omnibus services, were described as contributing to make us, in the speaker's words, "an eighteen-hour nation." Reference was made to statistics showing that over 46 per cent. of the accidents occurred during the winter months, although traffic is then less heavy than in summer. In winter months 52 per cent. of accidents occurred during dark hours, and in summer over 20 per cent. happened during dark hours when there was least traffic. In a full year, the speaker went on, one-third of the accidents happened during the dark hours. Reference was made to figures indicating the number of deaths and injuries occurring on the roads during certain periods of the night, notably between 5 p.m. and 7 p.m., when the average is 4·3 and 132 respectively, and the conviction was expressed that these figures could be reduced quite easily by adequate public lighting. Mr. Lennox thinks that there can be no hope of efficient schemes unless public lighting is handled by a central authority. Moreover, no smaller unit than a county borough should, it was urged, be a lighting authority, and in rural and urban areas the county council should be the administrative authority. The difficulties associated with the large number of authorities at present responsible for the lighting of comparatively small areas were alluded to in a note on the subject of street lighting appearing in this column a few weeks ago.

Road Safety: The Causes of Accidents.

In the course of a recent address before the National Government Transport Committee, the Minister of Transport dealt with the subject of road accidents in a more constructive manner than is, perhaps, the case in some quarters. Attention was drawn to the insufficiency, of themselves, of the making of regulations and the issue of general directions and advice directed to the prevention of road accidents and to the fact that the problem is often a local one calling for local investigation and local measures. The Minister referred to the arrangements made last year with the Commissioner of Police of the Metropolis for particulars of all accidents resulting in death or injury on four London thoroughfares known to have a bad accident record to be plotted on maps for a period of six months. When the maps were completed the roads were inspected in the light of information obtained, and, as a result, a number of recommendations were made to the highway authorities—the majority of which were carried out—including the installation of light signals, the alteration of kerb lines and stopping places for tramcars and omnibuses, the re-siting of crossing-places and the provision of refuges and pedestrian barriers. The results of these *a posteriori* methods appear to have been encouraging. Particulars of accidents along the same roads after the alterations show a decrease in the number of accidents by 14.6 per cent., while the number of deaths, serious injuries, and slight injuries are down by 53.5, 32.4, and 10.6, respectively. In the case of pedestrians, only one-quarter the number of deaths and a little more than one-half the number of serious injuries are recorded. Adverting to the fact that, while accidents due to vehicles other than pedal cycles showed a reduction of 33.3 per cent., accidents due to pedal cycles were increased by 39.5 per cent., Mr. Hore-Belisha stated that if means could be found to reduce accidents due to pedal cycles we should have gone a long way towards the solution of the problem. The results of the foregoing investigation were described as sufficiently encouraging to warrant its extension to other roads. Certain roads are now under intensive examination by the officers of the Ministry in conjunction with representatives of the police and highway authorities, the preliminary particulars having already been obtained, while it is hoped by dealing with six long routes in each succeeding six months to cover most of the roads where accidents are particularly frequent.

Housing Progress.

A statement just issued by the Ministry of Health—the third of a series of half-yearly returns concerned with housing in England and Wales—indicates the progress which has been made in the provision of new houses and in combating slum conditions up to the 30th September, 1935. Compiled from departmental records relating to the approval of housing proposals and from returns furnished by local authorities indicative of what has been done in the carrying out of approved proposals and the provision of houses by private enterprise in their respective areas, the publication contains a mass of statistical information unsuitable for detailed reference here. It may, however, be shortly indicated that between the date of the Armistice and the 30th September last, the total number of new houses provided (exclusive of 14,776 provided to re-house persons displaced by improvement and reconstruction schemes under legislation prior to the Housing Act, 1930) was 2,804,888, of which no less than 1,974,379 were the outcome of private enterprise. At the date of the Armistice the number of houses in England and Wales was a little under 8,000,000. Private enterprise continues to be the main factor in the provision of new houses, the last half-year having witnessed the construction of some 125,000 houses in this manner, compared with about 23,000 built by local authorities. Figures suggest, however, that activities in this

direction by local authorities are likely to increase in the near future. Thus, the number of houses built by these authorities with State assistance during the half-years ending 31st March, 1935, and 30th September, 1935, were 14,143 and 18,539 respectively, while the rate of submission of orders and proposals for re-housing continues to show a steady increase. The progress in slum clearance is shown by the fact that the total number of houses demolished or closed under the Act of 1930, during the year ended 30th September last, was 30,890, which compares favourably with the total of 37,742 houses closed or demolished under the Act up to 30th September, 1934, the figures for the last four half-years (8,019, 10,178, 14,095 and 16,795) illustrating the same tendency. Progress is also indicated by the number of houses under construction at the end of these periods—10,512, 19,301, 24,898 and 40,093 respectively. For further information readers must be referred to the Statement which is published by the Stationery Office, price 3d.

The Detection of Crime.

READERS may be interested in the recent statement made by the Home Secretary in the House of Commons regarding the employment of wireless in the detection of crime. Asked whether the Home Office had now decided to set up a national wireless installation to circulate details of grave crimes to mobile police squads operating throughout Great Britain, together with the descriptions of wanted persons for these crimes, and whether he could give particulars of the further development of wireless contemplated in the aid of police work, Sir JOHN SIMON said he hoped that it would eventually be possible to institute a system of regional schemes for communication by wireless between a central station and mobile units over a radius of 30 to 40 miles, and that these schemes, with the scheme already in operation in the Metropolitan Police District, would, when fully developed, cover most of the country. The Home Secretary indicated that considerable progress has already been made with one regional scheme which is not, however, yet in operation, and stated that the general development of the system will not be possible until further experience has been gained.

Unemployment Assistance.

IT is announced that the second appointed day under the Unemployment Act, 1934, is to be further postponed. Meanwhile, the grants placing public assistance authorities "as nearly as may be" in the financial position they would have occupied if the statutory duties of the Unemployment Assistance Board had not been delayed by such postponement are to be continued. A Bill is to be introduced with the object of providing for the continuance of such grants from 1st October, 1935, to 31st March, 1936, or to the second appointed day, whichever is the earlier. Further legislation will be necessary if the transfer of responsibilities from the public assistance authorities to the Unemployment Assistance Board does not take place until after the date last mentioned. The method of determining the grants is to be the same as that now in existence and the annual cost is estimated at approximately £5,625,000, of which some £4,000,000 relate to England and Wales.

Railway Company's Duty towards Passenger.

IN the recent case of *Henderson* v. *London Midland and Scottish Railway*, decided in the Court of Session, and now fully reported in 1935, S.C. 734, the court had to consider a question which obviously has an interest for all who travel by rail, namely, what is the extent of the duty owing by the company to passengers who make use of their railway? It appears that the plaintiff, or the pursuer as he is called in Scotland, was a gentleman of advanced years, and of abnormal weight, who was in the habit of travelling frequently between Troon and Glasgow. His practice in boarding the train was to take hold of the handrail with his right hand and to grip the window ledge with his left hand, to put his right foot on to the step and by putting weight upon the step by his right foot, and by making use of the handrail and of the window sill he hoisted himself into the carriage. On the occasion giving rise to the question in the case he was following his usual practice when his right foot slipped, with the result that his weight was flung upon his left leg, which gave way under him, and he sustained injuries of a serious kind. By his pleading he alleged that the step of the carriage owing both to its design and to the place where the train was drawn up on the occasion in question constituted a concealed trap. Was the company liable? The court laid it down that the duty of a railway company who invite the public to travel by their line is to provide an access to their carriages which is reasonably adequate and safe, that involving, of course, an access which contained nothing in the nature of a trap, but this duty, the court went on to point out, was one owing to the normal passenger. There was no duty to provide carriages with steps of a uniform height from the platform, or any obligation on them to ensure that the train would invariably pull up each day at the same point on the platform. Moreover, the step was not in the nature of a concealed trap, its height being obvious even to the casual onlooker. As the Lord Justice Clerk said: "It would impose quite an impossible duty upon a railway company if they had to take special precautions for each individual who had his own particular disability. All that a railway company can be reasonably expected to do is to have their carriages safe for the average individual. Beyond that people must use their own eyes, and take care of their own safety." The action was therefore held to be not maintainable.

Recent Decisions.

IN *J. Finn, deceased* (*The Times*, 6th December), the court granted probate of a will which, as it was held in the circumstances, had been validly executed by the testator, who was illiterate, fixing his thumbmark in the position where the signature usually appears. The ink-smeared testator's thumb slipped and the mark itself was a mere blot precluding its identification as a thumb impression. LANGTON, J., signified that the method was one which did not commend itself to him at all, and it was not argued that generally a thumbmark was a means of due execution apart from the circumstances of the case.

In *Aitchison* v. *Page Motors, Ltd.* (*The Times*, 6th December), it was held that garage proprietors were answerable in damages in respect of the total destruction in an accident of the plaintiff's motor car which was being driven at the time by one of their servants in circumstances which made it clear that he was using it for some private purpose of his own. Their servant was killed in the accident. He was, it was held, invested with ostensible authority to take delivery of the car from the manufacturers after repair, and the defendants were answerable to the plaintiff for the manner in which he conducted himself in performing that service. The plea that he was not acting in the course of his employment therefore failed.

In *Rex* v. *Income Tax Special Commissioners: Ex parte Elmhirst* (p. 941 of this issue), the Court of Appeal upheld a decision of a Divisional Court, which discharged a rule *nisi* for a writ of prohibition to prohibit the Special Commissioners of Income Tax from hearing an appeal against an additional assessment to income tax on the ground that notice of withdrawal had been given, and held, in effect, that a taxpayer who has given notice of appeal is not entitled to withdraw so as to prevent the Commissioners from ascertaining the sum which ought to be assessed. The Commissioners in such circumstances were not deciding a *lis inter partes* but were fixing the amount which, in the interests of the country at large, the taxpayer ought to pay.

Stay of Enticement Action pending Divorce Suit.

Under s. 41 of the Supreme Court of Judicature Act, 1925, the High Court and the Court of Appeal have jurisdiction to direct a stay of proceedings in any cause or matter pending before them. It is impossible to catalogue or reduce to a few categories all the cases in which the court will take this step, but it is undesirable that the different courts—whether one be an inferior court of record, or both be courts of concurrent jurisdiction—should concurrently decide the same matter. For, clearly, this might result either in different orders being made by different courts, or, what is equally undesirable, of one court finding a cardinal fact, e.g., adultery, and the other court coming to the opposite conclusion.

Accordingly, the Court of Appeal have held that where divorce proceedings are pending, an action brought in the King's Bench Division by the husband against the co-respondent for damages in respect of the alleged enticement of his wife should be postponed until the divorce petition has been heard : *Pacheco de Cespedes* v. *McCandlish*, *The Times*, 23rd November.

In March the wife petitioned for divorce, alleging adultery against her husband. The latter, by his answer, alleged adultery against his wife and claimed £5,000 damages from the co-respondent, M. After the petition had been instituted, the husband sued M in the King's Bench Division, claiming £5,000 damages for alleged enticement.

Swift, J., postponed the hearing of the action and he was upheld by Greer and Scott, L.JJ.

It was urged that in the enticement action the issue of adultery was irrelevant and that questions thereupon would be inadmissible. But, said Greer, L.J., if I entice my neighbour's dog with a lump of sugar, may not the lump of sugar be material evidence of enticement ?

True it was that adultery was not of the essence of enticement, which action could be maintained quite independently :—

> " That was certainly so on paper, but experience showed that it was impossible to leave out of consideration the fact that it might be said that a wife was enticed to leave her husband so that adultery might be committed."

The defendant could be cross-examined upon that fact, and the plaintiff, having then obtained further information, might ask for leave to amend the pleadings in the divorce suit.

It was accordingly " expedient in the interests of justice " that the action should be postponed until the petition had been heard.

Scott, L.J., thought that the principle recently enunciated by the President in *Knott* v. *Knott* [1935] P. 158 ; 79 Sol. J. 626, applied.

It was there held that where a husband had taken out a summons in the petty sessions to discharge a maintenance order on the ground of his wife's adultery, and where the wife had subsequently filed a petition for divorce on the ground of her husband's adultery, the proceedings in the inferior court should be stayed pending the decision of the paramount issue of status in the High Court.

There, too, it was submitted that although the issue of adultery was identical in both cases, the relief resulting from the determination was entirely different. The Divorce Court cannot set aside a maintenance order ; nor does a finding of adultery in that court necessarily lead to a decree for dissolution. Yet, despite the practical difficulties, it was felt that the Divorce Court ought to be able to try the issue of adultery—

> " upon the evidence of witnesses, unembarrassed by the fact that a Divisional Court have accepted or rejected, on evidence necessarily viewed at second hand, a decision of the justices given at a time when the very issue was pending in this court " (p. 166).

Knott v. *Knott* followed the reasoning in *Higgs* v. *Higgs* [1935] P. 28 ; 78 Sol. J. 768.

In this case the wife took out a summons for neglect to maintain, whereupon a maintenance order was made. Pending the proceedings the husband filed a divorce petition on the ground of his wife's adultery. The wife filed no answer. It was held that, although both the petty sessions and the Divorce Court have power to order provision for a wife, yet there is an obvious inconvenience in holding that they have concurrent jurisdiction. Once a petition is pending, the magistrate ought not to deal with a summons for maintenance.

The President and Langton, J., followed, in this decision, " the robust words " of Avory, J., in *Rex* v. *Middlesex Justices, ex parte Bond* [1933] 1 K.B. 72, 80. After a decree of divorce had been made absolute the wife applied to petty sessions for the custody of a child. Since, however, the question of custody could be dealt with by the Divorce Court it was held that once the Divorce Court was seised of a matter its jurisdiction was exclusive. Du Parcq, J., doubted, but Lord Hewart, C.J., said :—

> " I think that the jurisdiction of that court is an overriding jurisdiction " (p. 79).

And Avory, J., pointed out :—

> " The inconvenience of holding that there is concurrent jurisdiction in the Divorce Court and in the justices is obvious, for if the justices may make an order as in this case, there is nothing to prevent the husband going to the Divorce Court the next day and asking, possibly successfully, for a contrary order. The question might see-saw between the two courts, producing an absolute scandal " (p. 80).

The principle of these four authorities makes it quite clear that once the Divorce Court becomes seised of a matrimonial cause, it is proper that proceedings pending in any other court —whether before the magistrates or in the King's Bench or the Chancery Division—that involve the same or a similar issue, or that require the same or similar findings, should be stayed pending the hearing in the Divorce Court.

Company Law and Practice.

Section 153 and the Constitution of a Class.

It will be recalled that s. 153 of the 1929 Act deals with arrangements and reconstructions, and confers upon a company power to compromise with creditors and members. Sub-section (1) provides that where a compromise or arrangement is proposed between a company and its creditors or any class of them, or between the company and its members or any class of them, the court may, on the application in a summary way of the company or of any creditor or member of the company, or, in the case of a company being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members of the company or class of members, as the case may be, to be summoned in such manner as the court directs. We should here observe that " the court " in this connection means " the court having jurisdiction to wind up the company," and that the application to summon the required meetings is made by summons under Ord. 53B, r. 8 (*g*).

The resolutions approving the proposed compromise or arrangement must be passed by a majority in number representing three-fourths in value of the creditors or class of creditors, or members or class of members, as the case may be, present and voting in person or by proxy at the meeting ; and the compromise or arrangement, when sanctioned by the court, becomes binding on all the creditors or their class, or the members or their class, whichever it may be, as well as on the company or on its liquidator or contributories, if the

company is in the course of being wound up: s. 153 (2). The expression "company" means and the expression "arrangement" includes, when used in the section, by virtue of sub-s. (5), "any company liable to be wound up under the Act," and "a re-organisation of the share capital of the company by the consolidation of shares of different classes or by the division of shares into shares of different classes or by both those methods," respectively.

It must therefore be obvious that the question of what persons constitute a class is of the utmost importance; and indeed, it is a favourite argument by the opposition, when a scheme is before the court for its sanction, that the classes in question were improperly constituted, and, if such a contention is proved, then a perusal of the section clearly shows that the objection goes to the whole root of the matter. As can easily be imagined, it is a task of impossible magnitude to attempt the enumeration of all the possible classes of creditors or of members, for their number is legion. The most that we can do (and this is my intention to-day) is to consider the principles which afford us some guidance to the problem of what persons should be put in the same class.

In the case of *Sovereign Life Assurance Company* v. *Dodd* [1892] 2 Q.B. 573, the facts were numerous and complicated, but it is enough for our present purposes to know the following. The defendant effected with the plaintiff company two policies of life insurance, whereby he became entitled to receive the moneys assured in the event of his being alive on a certain date. Before that date arrived, a petition for winding-up the company was presented, and a provisional liquidator appointed; two years later, and one year after the material date, a winding-up order was made. The defendant had paid all his premiums down to the date mentioned for repayment, but had never received payment of the moneys assured by the policies. Subsequently, the plaintiff company entered into an arrangement with the Sun Life Assurance Company, whereby it was provided that the policies of the plaintiff company should be transferred to the Sun Life Assurance Company, and that the holders of policies in the former company should accept certain reduced payments from the latter company, in full satisfaction of all claims against the plaintiff company. A meeting of policy-holders was summoned, under s. 2 of the Joint Stock Companies' Arrangement Act, 1870; but no separate meeting was summoned of those of them whose policies had, as distinct from those whose policies had not, matured. At this meeting, a majority in number representing three-fourths in value assented to the arrangement, but the defendant did not so assent; in due course, the arrangement was duly sanctioned by the court. In this action, in which the plaintiff company sought to recover from the defendant the amount of certain loans advanced to him on the security of his policies, and in which the defendant was held entitled to set-off against that claim the sums which, but for the winding-up, would have been payable to him upon the policies, the question arose whether separate meetings of the two above-mentioned classes of policy-holders should have been held. The company, of course, contended that the whole body of policy-holders formed together one class of creditors, whether or not their policies had matured, and separate meetings were not necessary. Lord Esher, M.R., considered the point at p. 579, and, after pointing out that the state of affairs at the date of the meeting must be considered (as opposed to the position of things at the date of the original contract), and that the Act had recognised classes though it did not define them, he continued in these words: "This, therefore, must be done; they must be divided into different classes. What is the reason for such a course? It is because the creditors composing the different classes have different interests; and, therefore, *if we find a different state of facts existing among different creditors which may differently affect their minds and their judgment, they must be divided into different classes.*" As he pointed out, notice of the meeting was given to policy-holders—that was to say, policy-holders whose policies had to be dealt with. But the defendant was not a policy-holder at all; his policies had been fulfilled, and he was a creditor for the amount of them, and could have sued the company for money due; he had a vested cause of action, while the policy-holders had none. It is obvious that he could not consider the matter with the same mind and from the same point of view as the policy-holders who were summoned to the meeting. The Master of the Rolls was, however, careful to say he did not mean that, when there is nothing to be done but the payment of the money, a person in the defendant's position may not be said properly to be in the same class as others who are creditors of the company; but, at any rate, he cannot fall within the same class as those whose policies have matured. For these reasons, he was of the opinion that the defendant, not being a member of the class of persons who were summoned as policy-holders, had not been summoned to the meeting, and therefore he was not bound by what was done there.

In the same case, Bowen, L.J., drew attention, at p. 583, to the necessity for careful construction of the section—a necessity which is still, and for the same reasons, applicable to s. 153 of the 1929 Act; the object of this care being to avoid the placing in the hands of some of the creditors the means and opportunity of forcing dissentients to do that which it is unreasonable to request them to do, or of making a mere jest of the minority's interests. In his view it was obvious that the two sets of interests were inconsistent, and that those whose policies were still current were deeply interested in sacrificing the interests of those whose policies had matured. "They are bound," he said, "by no community of interest, and their claims are not capable of being ascertained by any common system of valuation." As to the meaning of the word "class," he used these words: "The word 'class' is vague, and to find out what is meant by it we must look at the scope of the section, which is a section enabling the court to order a meeting of a class of creditors to be called. It seems plain that we must give such a meaning to the term 'class' as will prevent the section being so worked as to result in confiscation and injustice, and that *it must be confined to those persons whose rights are not so dissimilar as to make it impossible for them to consult together with a view to their common interest.*" In these circumstances, the arrangement was held not to amount to a release by the defendant of the debt due from the company.

I have italicised the above two short principles extracted from these two judgments in the Court of Appeal, because the importance of their joint application to the particular circumstances and facts of each case that may arise cannot be overemphasised; though I feel bound to add that these principles are not always so simple in application as the conciseness and simplicity of their enumeration would lead one to suppose.

One instance of their application is given by the decision in *In re United Provident Assurance Company Limited* [1910] 2 Ch. 477. The question there was whether it was not essential to hold a separate class meeting, to consider a proposed scheme of arrangement, of a group of shareholders called Group C. Of the four groups of shareholders of the company, Group A consisted of the holders of certain fully paid ordinary shares of £1 each and Group C was composed of the holders of certain ordinary shares of £1, with 10s. paid up and another 10s. paid in advance of calls, under the articles this latter amount carrying interest at the rate of 5 per cent. Swinfen-Eady, J., held that the groups were not in the same position, as the shareholders in Group A had only the rights of fully paid shareholders, while those of Group C were entitled to interest on the amount paid in advance of calls until repayment. In other words, the holders of shares partly paid with the uncalled balance paid in advance of calls and carrying interest constitute a different class to the holders of fully paid shares.

These principles which I have mentioned above were also applied in the Scottish decision of *La Lainière de Roubaix* v. *The Glen Glove and Hosiery Company Limited* (1926), S.C. 91.

Upon the consideration of the scheme of arrangement in that case, all the creditors had voted together, although these creditors included (1) a bank, which under the proposed scheme appeared to be secured, by guarantee or otherwise, to the extent of 20s. in the £; (2) trade creditors, who were offered an immediate composition of 5s. in the £; and (3) depositors, who were offered either 5s. in the £ or 6s. 8d. in the £ if they allowed their money to lie five years at interest. Had these three classes of creditors voted separately, it appeared that the requisite three-fourths majority would not have been obtained in support of the scheme. As Lord Ormidale pointed out, in approaching the consideration of the scheme, the mental attitude of the bank must be entirely different from that of the other creditors; its attitude must be one of complete indifference, it being quite immaterial to it whether the dividend were 5s. or 5d., since the guarantors would make up the difference between the dividend, whatever it might be, and 20s. The creditors, other than the bank, might have preferred to risk a liquidation in the hope of securing a larger payment than they were offered by the scheme. In these circumstances, the court held that the bank, being a secured creditor, ought not to have voted with the unsecured creditors, and that, in the absence of the bank as a voting creditor, the necessary majority would not have been obtained; further, in view of the apparent preferential treatment of the bank, the reason for which had not been adequately explained by the company, the court refused to sanction the scheme, and a winding up order was made.

Finally, we should not conclude our consideration of this topic without recalling a Practice Direction given by Eve, J., in 1934, as to the responsibility for the proper segregation of classes. His Lordship there [1934] W.N. 142, observed that, in proceedings under s. 153, the responsibility for determining what creditors are to be summoned to any meeting, as constituting a class, is the applicant's; and if the meetings are incorrectly convened or constituted, or an objection is taken to the presence of any particular creditors as having interests competing with the others, the objection must be taken on the hearing of the petition for sanction, and the applicant must take the risk of having it dismissed.

A Conveyancer's Diary.

Consolidation of Mortgages—Building Societies' Mortgages.

I HAVE been reading, at the suggestion of a learned friend in Lincoln's Inn, a paper read by Mr. John H. Hill at the meeting of the Council of the National Association of Building Societies, reported in *The Building Societies Gazette* for July, 1935. Following the reading of the paper (which perhaps I may be allowed to say, without impertinence, was a very able one) there was a discussion in the course of which Mr. Hill expressed an opinion regarding the consolidation of mortgages with which I am unable to agree if I have rightly understood him.

It is, I must admit, very difficult to see exactly what Mr. Hill is driving at, still more difficult to say at what conclusion he arrives.

Mr. Hill states a case as follows: "A borrower wished to repay a mortgage, and as very often happens, the building society said, 'Yes, by all means, but we shall exercise our power of consolidation.' The borrower objected to this, and took counsel's opinion, which opinion states that the building society can only exercise its powers of consolidation when the mortgagor is in arrear or has made default with regard to the particular mortgage he wishes to redeem." With that opinion Mr. Hill does not agree, and it may be of interest to the reader to follow his argument, and see where it leads, if it can be said to lead anywhere, and to add some general observations on the subject of consolidation of mortgages.

I think that it is particularly important to look at this subject, for the moment, from the point of view of a building society. The principles involved may be the same as in the case of an ordinary or "private" (Mr. Hill's word) mortgage, but there is a considerable difference in the form of the security and consequently in the expressed contract between the parties.

Mr. Hill lucidly expounds the difference between a private mortgage and a building society mortgage, and the ground upon which the right to consolidate is based. He says, in effect, that in the case of a "private" (I accept the term *passim*) mortgage a date for repayment is usually fixed (generally six months after the date of the mortgage) and after that date the mortgagor has only an equitable right to redeem. The legal right to redeem is lost after that date, but in equity a mortgagor might still redeem. Whilst the Court of Chancery recognised that right to redeem beyond the period allowed at law, there was also imposed upon the mortgagor the obligation, if called upon by the mortgagee to do so, to redeem at the same time any other mortgages to the mortgagee the legal right to redeem which had already expired. That is not exactly as Mr. Hill puts it, but I think it is what he intended to convey, and, whether that be so or not, I think that it is right.

Then Mr. Hill proceeds to show why he differs from the opinion of counsel to which he referred. He says: "Now, because in the case of a private mortgage repayment must become due before the mortgagee can exercise his equitable right of consolidation, therefore counsel goes on to say that a building society mortgage must also become due before the society can exercise its right." Pausing there, I should have thought that counsel was obviously right. However, Mr. Hill continues, "but a building society mortgage usually becomes due, amongst other reasons, when the subscriptions have become two months in arrear. I suggest that the default which is made by a private mortgagor in not repaying on the due date is purely a technical one, because no one in practice contemplates that he is going to repay on the actual date fixed for repayment, and that this technical default is very different from an actual default which would have to be made—if this opinion were correct—by a building society mortgagor before the society's power could arise."

So Mr. Hill would lead us into another quagmire of construction—what is an "actual default" and what a "technical default"?

Neither at law nor in equity can any such distinction be drawn. Either the mortgagor is in default or he is not in default, and there is no such qualification known to the law, in whatever jurisdiction administered, as "actual" or "technical."

Then Mr. Hill puts a case where a mortgagor has, say, four mortgages on properties A, B, C and D, each being repayable by instalments extending over fifteen years. The mortgagor keeps up his payments in respect of the mortgage on A but defaults as to the others. The time arrives when the mortgagor does in fact pay up all he owes under the mortgage of A and calls for a reconveyance and demands the title deeds. I should have thought it to be manifest that the building society could have no right to consolidate the mortgage of A with the other mortgages. What Mr. Hill's opinion upon this point is I do not know because just at the point where one would have expected him to be explicit he becomes obscure. I gather, however, that he would not agree with me because he goes on (rather inconsequently): "I also suggest that the power of consolidation is not now an equitable power at all, inasmuch as it must be and always is created by contract and not by law." Then he refers to s. 93 of the L.P.A., 1925, and adds "therefore you have expressly to exclude the Act from your mortgage deeds and therefore, as I have

said, it arises by contract between the mortgagor and mortgagee."

Section 93 (1) of the L.P.A. reads :—

"A mortgagor seeking to redeem any one mortgage is entitled to do so without paying any money due under any separate mortgage made by him or by any person by whom he claims solely on property other than that comprised in the mortgage which he seeks to redeem. This subsection applies only if and so far as a contrary intention is not expressed in the mortgage deeds or one of them."

It seems to me that if s. 93 (1) be excluded, as is usual in a building society mortgage, then the law regarding consolidation of mortgages applies as though that subsection had not been enacted. I cannot see that a provision which excludes the operation of that subsection creates a contract between the mortgagor and mortgagee. If it does the only contract possible is an implied one to the effect that the mortgagee shall have the same right of consolidation which he would have had if s. 93 (1) had not been enacted.

I hope to pursue this subject in a future issue.

Landlord and Tenant Notebook.

Construction of Grants of Rights of Way.

In questions relating to rights of way of necessity, or to those brought about by prescription, issues of law are generally quite clearly separated from issues of fact. In the case of an express grant, demarcation is sometimes less easy ; and while we may never see such a case tried by judge and jury again, the question becomes relevant when the prospects of an appeal have to be considered.

The reason for the difficulty indicated is that, while the construction of a document is a question of law, most grants of rights of way are so drawn that it is impossible to construe them without reference to surrounding circumstances, which are facts. A question of alleged abuse may, of course, raise points of law as well as issues of fact.

Take such a case as *Hawkins* v. *Carbine* (1857), 27 L.J. Ex. 44. Here the defendant, tenant to the plaintiff, had a right to use a way through a gateway at all reasonable times. When the term was granted, his carts were able to turn round in the way ; during its currency, the plaintiff erected a building which made that operation impossible. Accordingly, the tenant resorted to driving right through the gateway and turning in the yard beyond it, which was not part of the premises demised. A jury, to whom the question was so left, found that this was reasonable user of the right. The plaintiff obtained a rule, and in the Exchequer Chamber Pollock, C.B., said the matter was clearly for the jury, but if it were one of law he was for the defendant ; Martin, B., said that it was as much a matter for the jury as would have been a question whether the vehicles used were too large and heavy ; Watson, B., agreed that it was rightly left to the jury.

There was more law in *Skull* v. *Glenister* (1864), 16 C.B. (N.S.) 81. The right in this case—a right of way with passage, ingress, egress and regress with horses and carts, carriages or otherwise upon or over a specified bridge and in, through or over specified closes—had been granted by the plaintiff to the defendant's landlord on the sale of the land. The defendant, when building on land of his own adjoining one of those closes, found it convenient to take it from the purchaser on a yearly tenancy at £1 a year, and to convey his building materials along the road and across the bridge. The tenancy was a verbal one, and nothing was said about the right of way ; whether the tenant had a right to use it was a question of law, decided in his favour. Whether having the right he might use the way to convey goods beyond it, colourably, was also a matter of law, on which the court ruled in the plaintiff's favour. But it was left to the jury to say whether the defendant did "really" (the actual word used) use the way as a way to land let to him, or whether he "really" used it to get to his own land. Despite the somewhat suspicious circumstances surrounding the tenancy, this was found in the defendant's favour.

Cannon v. *Villars* (1878), 8 Ch. D. 415, was determined by a judge alone, but with careful distinguishing of what was fact and what was law. The parties were intending tenant and landlord under an agreement for a fourteen years' term ; some of the terms of the agreement are set out in the report, and it reads as if, though not settled by a skilled draftsman, it was not entirely the work of a layman ; possibly one of those cases in which the assistance of someone with a brother who used to be in a solicitor's office is invoked. It described the premises as a messuage with a piece of vacant ground. It provided for a lease to contain the usual and proper covenants, specifically mentioning that the tenant was not to underlet without consent. It gave him the right to erect a workshop, for the purpose of his business as a gas engineer, on the vacant land ; it forbade him from obstructing the entrance and gateway, except for the purpose of ingress and egress, but did not mention vans. The action was for an injunction to restrain him from obstructing the way with carts etc. Jessel, M.R., said the questions, both of law and of fact, were simple. As regards the law, the construction of a grant depended on the circumstances surrounding the execution of the instrument, which indicated the nature and the purpose of the grant. He applied this principle to the following facts : the way was the only means of access to the land ; the parties contemplated that the tenant should build ; in London, building materials were delivered by carts ; the way was wide enough for carts ; it was metalled. What I wish to stress is that while some of these facts could be collected from the agreement and one belongs to the category of those of which judicial notice is taken, others must have been evidenced by oral testimony.

Another type of dispute which occasionally arises is what class or classes of persons may take advantage of the grant. The most useful case on this, and one which illustrates the present-day tendency, is *Baxendale* v. *North Lambeth Liberal and Radical Club Ltd.* [1902] 2 Ch. 427, which was between two tenants holding adjoining properties of the same landlord. The approach to the premises belonging to the defendants, who were assignees of the term, was along a passage through the plaintiff's ground ; and the defendants' lease gave full and free right and liberty to the lessee, his executors, administrators and assigns, his under-tenants and servants, to go along that passage. The plaintiff complained of trespassing by members of the club, guests, visitors, officers and tradespeople. *Cannon* v. *Villars*, *supra*, was cited, and on the strength thereof and of the fact that the premises were by nature such as might be used as a club it was held that the grant extended to licensees of the lessee who were his associates and tradespeople. Indeed, the defendants would have been ill-advised to take the assignment were this not so, for, being a limited company they could never have used the premises —a corporate body cannot, of course, proceed along a way— and of the classes specified in the lease only servants would have been able to reach the club, where their service would necessarily have been of the standing and waiting variety.

The above decision was followed in a toll bridge case, *Hammond* v. *Prentice Bros. Ltd.* [1920] 1 Ch. 201, in which a long list of classes of persons was held to illustrate and not to define what was meant.

Mr. William Bingham, J.P., chairman and managing director of the board of the Sceptre Fund of the Eagle Star and British Dominions Insurance Company, Limited, who has been a justice of the peace for the Blackheath Division of the County of London for twenty-eight years and chairman of the Bench since 1925, was unanimously re-elected chairman at the November meeting of the justices.

Our County Court Letter.

THE REMUNERATION OF WELL SINKERS.

In the recent case of *Brown* v. *Cornish*, at Kidderminster County Court, the claim was for £70 12s. 8d. for materials used and work done in deepening a well. The defendant had paid into court £40, which left £30 12s. 8d. as the amount in dispute. The plaintiff's case was that the well was already 27 feet deep in July, 1934, when he was called in. The work lasted until October, and the charge was admittedly heavy, but it was necessary to bore through rock strata, which could not be blasted—owing to the proximity of the house. Owing to the urgent demand for such work in 1934, neither he nor his men could afford to waste time on the job. The defendant's case was that the plaintiff had quoted £1 per foot, but the well was only deepened to the extent of 8 feet 3 inches. The plaintiff's men had charged him at the rate of fifty hours per foot, viz., 1s. 3½d. for a sinker and 1s. for a labourer. The well could have been sunk to the above depth for 35s. a foot in forty-eight hours, instead of the 368 hours charged for. The so-called rock was Lower Keuper Sandstone, which was moderately soft, laminated and easy to excavate. His Honour Judge Roope Reeve, K.C., observed that the plaintiff was charging £8 per foot, which was excessive. Instead of taking sixty hours (the time estimated by the experts) two men had taken 364 hours each, i.e., a total of about 730. The truth lay somewhere between the sixty and the 730 hours, but the plaintiff was entitled to no more than the £40 paid into court, viz., about £5 a foot. Judgment was therefore given for the defendant, with costs. Compare a previous case, noted under the above title, in the "County Court Letter" in our issue of the 10th August, 1935 (79 Sol. J. 588).

COAL CONCILIATION BOARD PROCEDURE.

In a recent case at Ystrad County Court (*Fernhill Collieries* v. *Howell*) the claim was for £26 5s. 6d. as damages for breach of contract. The same plaintiffs also claimed £35 0s. 8d. against Davies, and £28 0s. 5d. against Jones. The defendants were hauliers, and a lightning strike had occurred in February, which caused the pit to be on stop for about three weeks. An output of 32,000 tons was lost, and the defendants had not given fourteen days' notice of intention to terminate their contracts, as required by the Conciliation Board agreement. The defence was a denial of any breach of agreement, as the conduct of the manager was such that the hauliers, through their representatives, were not able to follow the procedure laid down in cl. 32 of the above agreement. The manager had promised an allowance, to men working in water, but (in order to avoid fulfilling his promise) he had deliberately broken two appointments to meet the men's representatives. His Honour Judge Clark Williams held that there had been a breach of agreement, and judgment was given for the plaintiffs, for an amount to be ascertained from their books.

SHOPKEEPERS' LIABILITY FOR ACCIDENTS.

In a recent case at Liverpool County Court (*Hunter* v. *British and Argentine Meat Co. Ltd.*) the claim was for damages for negligence. The plaintiff's case was that while she was in the defendants' shop (as a customer) an assistant dropped a 1-lb. weight upon the scales. The scale pan, and other weights, then fell over, and a 4-lb. weight fell upon the plaintiff's left foot. The defendants' case was that their manager had weighed a piece of meat, but the plaintiff was dubious about having it. The manager therefore left her considering the matter, while he went to another part of the shop. He next heard a crash, but did not see how the accident happened, and nothing similar had occurred before. A woman, who had been looking through the window, stated that the plaintiff, while pulling her shawl over her shoulders, had knocked the pan off the scales. His Honour Deputy Judge O. G. Morris inspected the scales, and observed that the scale pan was easy to upset. Judgment was given for the plaintiff for £14, and the sum of £4 10s. was awarded as special damage to her husband, who was permitted to be added as a co-plaintiff, with costs.

Obituary.

Mr. R. A. NELSON.

Mr. Richard Albany Nelson, B.A., LL.B. Cantab., solicitor, of Teignmouth, died on Friday, 6th December. Mr. Nelson, who was admitted a solicitor in 1907, was head of the firm of Messrs. W. F. C. Jordan & Co., of Teignmouth.

Mr. J. C. WADDINGTON.

Mr. James Charles Waddington, solicitor, senior partner in the firm of Messrs. Waddington & Son, of Burnley, died on Saturday, 7th December, in his seventy-eighth year. Mr. Waddington served his articles with Mr. William Eastham, of Clitheroe, and Messrs. Robinson, Preston & Stow, of London, and was admitted a solicitor in 1884, gaining first place with first-class honours in the Final Examination. He was Clerk to Padiham Urban Council for twenty-one years, and for a number of years he was also Clerk to the Barrowford and Easby Councils.

Mr. A. E. WARD.

Mr. Arthur Edward Ward, retired solicitor, of Exeter, died on Wednesday, 11th December, at the age of eighty-three. Mr. Ward, who was admitted a solicitor in 1875, was head of the firm of Messrs. A. E. Ward & Son, of Exeter.

Mr. G. F. F. WHITE.

Mr. George Frederick Freeland White, solicitor, a partner in the firm of Messrs. H. B. White, Sons & Wallhead, of Warrington, died at Stockton Heath on Sunday, 8th December, in his seventy-fourth year. He was admitted in 1886.

Books Received.

The Annual Practice, 1936. Fifty-fourth Annual Issue. By W. Valentine Ball, a Master of the Supreme Court, R. F. Burnand, a Master of the Supreme Court, and F. C. Watmough, of Lincoln's Inn, Barrister-at-Law, assisted by Philip Clark and G. J. Plowman. Demy 8vo. pp. cdxliv and (with Index) 3,185. London: Sweet & Maxwell, Ltd.; Stevens & Sons, Ltd. £2 2s. net.

The Journal of Comparative Legislation and International Law. Third Series. Vol. XVII. Part IV. November, 1935. London: Society of Comparative Legislation. Price 6s.

Civil Procedure for Examinees. By R. W. Farrin, of Gray's Inn, Barrister-at-Law. Second Edition. 1935. Demy 8vo. pp. iv and 76. London: Sweet & Maxwell, Ltd. 3s. 6d. net.

Highway and Road Traffic Law. By R. P. Mahaffy, of the Inner Temple, Barrister-at-Law. 1935. Royal 8vo. pp. viii and (with Index) 202. London: Edward Arnold & Co. 15s. net.

Tax Cases. Vol. XIX. Parts VI and VII. 1935. London: H.M. Stationery Office. Price 1s. per part.

The Elements of Criminal Law and Procedure. By A. M. Wilshere, M.A., LL.B., of Gray's Inn and the Western Circuit, Barrister-at-Law. Fourth Edition. 1935. Demy 8vo. pp. xxiv and (with Index) 375. London: Sweet & Maxwell, Limited. 15s. net.

"*The Times*" *House of Commons Guide*, 1935. Royal 8vo. pp. 188. London: "The Times" Office. 2s. 6d. net.

THE LAW OF PROPERTY ACTS, 1925.

By A. F. TOPHAM, Esq., K.C.

A Verbatim Report of the Eighth of a Series of Lectures Delivered to The Solicitors' Managing Clerks' Association.

(Continued from page 920.)

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The next point under the Administration of Estates Act is rules as to intestate succession. There, of course, you will remember an entirely new set of rules was introduced for succession to all property, real and personal, no distinction being made between male and female, and the whole position being altered very considerably, real and personal property also going together. You may remember that when I lectured before, I explained that those rules were based on what was ascertained to be the sort of average will that an ordinary man makes. Two cases have arisen with regard to the rights of the widow. Of course, the husband of the deceased wife has similar rights, but they have arisen in fact in respect of the widow. You will remember that under the Act, the widow, if she survives, gets a first payment of £1,000 with interest at 5 per cent. from the death, and complications arise sometimes where the life interest is given to the widow by the will and then there is an intestacy, and the question as to how this £1,000 is to be paid has to be settled. In one case the payment of the £1,000 was postponed for a considerable time, and the question was whether, the wife having a life interest either on intestacy or under the will in addition, the interest on the £1,000 was to be paid out of the income, or, as the widow said, the whole of the interest and the capital was to come out of the capital. It was held by Mr. Justice Eve in the case of *Re Saunders* that both were to come out of capital. I think somehow one has a sort of feeling that interest ought to come out of income and capital out of capital, but there is nothing in the Act to say which it is to be, and Mr. Justice Eve held, nothing more being said, that it must come out of capital. I do not know that it matters much so long as it is clear, and you know what the rule is. In that case of *Re Saunders* [1929] 1 Ch. 674, a person died intestate in 1926. He left no issue. He left brothers and sisters and a widow. The rule therefore would be that the widow would take a life interest in the property as well as her £1,000, but for some reason the £1,000 was not paid until February of 1929—two and a half years or more—and it became therefore rather important in a way as to what fund the interest of 5 per cent. was to come out of. It was held that the £1,000 and the interest were to be paid out of capital, and then when that had been done the rest of the capital was to be invested, and the wife would get the income for her life on the whole. I cannot help feeling that that was rather an ingenious sort of claim, but a still more ingenious claim was made by the widow in *Re McKee* [1931] 2 Ch. 145; 75 Sol. J. 442, but in that case she did not succeed. There the real and personal estate of the testator was bequeathed on trust for sale and investment, and to hold on "trust to pay the income to the wife for life and after her death to be equally divided between my surviving brothers and sisters." Well, the wife lived a good long time, and none of the brothers or sisters managed to survive her, and it was held that "my surviving brothers and sisters" meant the brothers and sisters who survived the wife, and as they all died during her lifetime there was a lapse as regards the whole of the capital of the testator's property after the life of the widow. So that you get this: under the will the wife got a life interest in the property, but, subject to that, the rules of intestate succession apply, and the first thing that had to be decided was what happens with regard to the £1,000 and interest; and there it was held, and I think there was not much doubt about it, that out of the capital which was undisposed of at the death of the wife, the wife, or rather, it would be her executors—I suppose they would be the people who would actually enjoy the fund—would get the £1,000 and interest on the £1,000 from the date of the death of the testator at 5 per cent. But then it was claimed on behalf of the widow that she or her executors were also to get something more than that, because she was entitled to a life interest in the property in respect of which the deceased died intestate, and it was argued that he had died intestate in respect of the reversion expectant on the death of the widow. So they said he died intestate of the whole of his property except for the widow's life interest, and therefore you must sell the reversion expectant on her death, and give her a life interest in the proceeds. I suppose after you had done that, you would again sell the reversion in the proceeds of sale and give her the life interest. But the court held that that was pushing it too far, and she did not get that provision; she got simply her life interest, and then she or her executors would get £1,000 with interest at 5 per cent. from the death, and the rest of the estate was undisposed of.

Another question which arises on intestate succession or administration of assets, either on intestacy or under a will, is the application of that rather troublesome case of *Howe* v. *Lord Dartmouth* (1802), 7 Ves. 137. There, you will remember, the old rule was this: that when you got land held on trust for sale or residuary personalty and a life interest was given, if there were any wasting securities or unauthorised investments, the tenant for life was presumed not to be entitled to the whole of the income of the wasting securities or unauthorised investments, and, if they were not sold, the life tenant was only entitled to a certain percentage; in some cases it was only 3 per cent., and sometimes it was decided to be 4 per cent. on the value, rather based on the return of Government securities for the time. The Law of Property Act has made certain changes in that, and in the application of that rule, but, by s. 28 of the Law of Property Act, which, you may remember, gives to trustees who hold land on trust for sale, all the powers of a tenant for life, that section provides, in sub-s. (2), that the net rents, and so on, until sale shall be applied in like manner as the income of the investments if purchased. So that there is a provision in the Law of Property Act that, when land is held on trust for sale, the whole of the income is to go to the life tenant, because the life tenant would be entitled to the income of the investments. Whether that was intended to alter the rule or not I do not know, but the question arose in *Re Brooker* [1926] W.N. 93; 70 Sol. J. 526. There, there was a trust in a will for sale of certain land, and that included leaseholds with from twenty-eight years, in some cases to eighty-five years in others, still to run. Apart from this provision of the Law of Property Act, there you got land held on trust for sale, for leaseholds, of course, are land, and leaseholds were wasting securities, and therefore the tenant for life would only have been entitled to 3 or 4 per cent., but the court held that you must give effect to s. 28, which says that where land is held on trust for sale, the net rents until sale shall be applied in like manner as the income of the investments if purchased. There is nothing to show that it applies only to freehold land, or excludes leasehold, and therefore the law had been changed by s. 28 of the Law of Property Act, and where you got leaseholds held on trust for sale, *Howe* v. *Lord Dartmouth* no longer applies. It was endeavoured to extend that to personal property generally so as to get rid of the *Howe* v. *Lord Dartmouth* rule altogether in the case of *Re Trollope's Will Trusts* [1927] 1 Ch. 596; 71 Sol. J. 310. The argument

there was with regard to personal property. You will remember s. 39 of the Administration of Estates Act gives to executors all the powers of trustees for sale, and therefore it was argued that, as they have all the powers of trustees for sale, they have the powers given them by s. 28 of the Law of Property Act, and the provisions which apply to trustees holding land on trust for sale, including the provisions about net rent and profit until sale, apply to them; but it was held that sub-s. (2) of that section does not apply to personalty; s. 28 only applies to land, and accordingly, although the executors have the powers of trustees for sale, the incidents which are given to rents and profits under sub-s. (2) of s. 28 did not apply. Section 28 applies to land, and therefore it applies to leaseholds held on trust, but it does not apply to ordinary personalty, such as investments; and, apparently also, it does not apply, and the change does not apply, to leaseholds unless they are held in trust for sale, although that is not quite clear, because the land is held in trust by persons who have the powers of trustees for sale. At any rate, it was held that, as regards unauthorised investments not in land, *Howe* v. *Lord Dartmouth* still applied. It is, perhaps, rather unfortunate now that distinctions between real and personal property have been largely done away with; that, owing to those decisions on this section, there is an unfortunate survival of the distinction between the law relating to real and personal property. I do not see myself how these results could have been avoided on the words used in the sections, but, perhaps, if the difficulty had been anticipated, other provisions might have been made. However, you must remember that the rule of *Howe* v. *Lord Dartmouth* rather readily yields to any contrary indications of intention, and, perhaps, even more so now since the rule has been in part destroyed.

A case of a contrary intention being held to exist is *Re Barratt* [1925] Ch. 550. There, the testator gave all his estate to his wife for life; that is, a general gift of "all my estate"; and, after her death, he desired his estate to be divided into five portions. A question arose there as to wasting securities, or unauthorised securities, and as to whether the wife could take the whole of the income. It was held that the direction that his estate was to be divided seemed to indicate that it was not to be sold, and accordingly it was to be retained and therefore she was to get the whole of the income.

There are cases before the Act where any indication that the property is not to be sold has been held to take it out of the rule in *Howe* v. *Lord Dartmouth*.

Another important change which was made in the new Acts with regard to powers of trustees was in respect of maintenance and advancement. With regard to maintenance, there was already, under the Conveyancing Act of 1881, a provision under which trustees could provide for the maintenance of infants or persons entitled, either absolutely or contingently, on attaining twenty-one, or on the occurrence of any event before that age. The real difficulty that arose under that was that no provision under that Act was made for maintenance where any person was entitled contingently on reaching any other age than twenty-one, or on any other event happening before some later age. Of course, people very often settle property in such a way that the beneficiary does not get it until he reaches twenty-five, or even thirty-five, and in that case there was no provision for maintenance, and no provision as to what was to be done after the person reached twenty-one and before reaching twenty-five. The Trustee Act of 1925, s. 31, extends the provision for maintenance, and at first sight covers that difficulty quite thoroughly, because it extends the power to maintain during infancy to any interest, vested or contingent, and not limited to the contingency of attaining twenty-one or any other particular age. The section also directs that after a person has reached twenty-one the income is to be paid to the person entitled until the interest of that person fails or the person becomes entitled to possession of it, or dies. At first sight you would think that that covered the whole of the difficulty, but then there is a sub-section which introduces an exception, and it is such a wide exception that it eats away a very large portion of the rule; because sub-s. (3) says this: "This section applies in the case of a contingent interest only if the trust carries the intermediate income." Now that is a most unpleasant provision, because it drags in the question: Does the trust carry the intermediate income? There were cases on that which were very difficult before the Act, and it has not simplified matters at all; in fact, it has made it more important to ascertain whether the trust carries the intermediate income or not. A case where that had to be considered is *Re Spencer* [1935] 1 Ch. 533. There, there were certain gifts of a part of a share of residue to the son of the testator contingent on his attaining thirty-five, but subject to this contingent gift the whole of the property was to be held on certain protective trusts. There, at first sight, it came within the section; it was properly held on trust for a person contingently, and maintenance would *primâ facie* be applicable during his infancy. But it was held there that there was an intention shown that the gift should not carry intermediate income, because there being a gift over of the whole of the property on protective trusts which made the whole interest liable to forfeiture, it was an indication that the intermediate income was not carried by the fund, and therefore the whole of the income must be accumulated. That is a difficult case in a way to follow, because it depends on a rather difficult point of construction, but it just illustrates the fact that that section, which appears to give a power to pay maintenance in the case of a contingent gift, is very severely cut down by sub-s. (3), which says it only applies in case the trust carries the intermediate income. However, there is another section which makes it more easy to apply the section of the Trustee Act. That is s. 175 of the Law of Property Act, which expressly provides that in certain cases a contingent interest shall carry intermediate income. Section 175 of the Law of Property Act says this, and the words are rather important because it is limited again in its scope: "A contingent specific devise or bequest of property real or personal, and a contingent residuary devise of freehold land"—not personalty or leasehold—"or a trust of freehold land for a contingent interest shall carry the intermediate income." But you will see that does not apply to a residuary or general bequest of personalty, including leasehold. There again I cannot help feeling it is rather an unfortunate survival of the old distinction between real and personal property.

To show how that section is limited I refer to the case of *Re Raine* [1929] 1 Ch. 716. There, there was a bequest to a godchild of the testator of £2,000 if and when he should attain the age of twenty-one, and there you will see it was a contingent gift. Being a godchild and not a child there was no implication of the gift carrying the intermediate income, as you will see later, and the question therefore arose: Did it fall within this s. 175? It was held that it did not fall within s. 175 because it was not a specific gift—it was £2,000—and it was not a residuary gift of freehold land, or a trust of freehold land, and accordingly the intermediate income was not carried by the gift, and so under s. 31 there was no power to maintain the godchild.

Roughly speaking, the old rule is this; it is rather complicated, so I will not deal in detail with it to-night—I see the time is getting late. A contingent gift primarily did not carry the intermediate income, but if the testator was a parent of the beneficiary, or had placed himself *in loco parentis*, it did *primâ facie* carry intermediate income. In the case of any other person it did not carry intermediate income unless there was some other indication in the will showing an intention that maintenance should be provided for. That is the rule then that you have still got to look to, and there have been one or two cases since the Act applying that to the new conditions which arise under the new Statute. There is no time for me to deal with those to-night, and so we must postpone that, I am afraid, for a fortnight. (*Applause.*)

To-day and Yesterday.

LEGAL CALENDAR.

9 DECEMBER.—Edward Thurlow, eldest son of the Rev. Thomas Thurlow, was born on the 9th December, 1731. He became Lord Chancellor.

10 DECEMBER.—On the 10th December, 1764, "was heard before the Lord High Chancellor in Lincoln's Inn Hall, a very interesting cause wherein a Yorkshire lady was plaintiff, and James Reilly, a reputed Antinomian preacher, and others, were defendants. The cancelling of an annuity deed of £50 for the life of Reilly," was prayed on the ground that it was fraudulently obtained "from a person labouring under a temporary enthusiastical frenzy. After a full hearing of counsel, his lordship was pleased, to the extreme satisfaction of a crowded hall, to decree in favour of the plaintiff."

11 DECEMBER.—In September, 1902, John Kensit, the extreme Protestant agitator, had gone to Liverpool to address a series of anti-Catholic meetings. He was attacked by a hostile crowd and fatally injured by a steel chisel thrown at him by an unknown hand. The police arrested a boy of nineteen named McKeevan, who was indicted for murder at the Assizes. The trial was a sensational one. Doctors disagreed on the medical points and the evidence of identification was conflicting and unsatisfactory. Finally, after a cautious summing up by Mr. Justice Jelf, a verdict of "Not guilty" was returned on the 11th December, 1902.

12 DECEMBER.—A typical 18th century Sessions ended at the Old Bailey on the 12th December, 1778, when nine prisoners were sentenced to death, six were sent to hard labour in the hulks on the Thames, nine were ordered to be branded and imprisoned in Newgate, another nine to be branded and kept to hard labour in the House of Correction, and five were condemned to be whipped. Among those sent to the gallows was a man who had written to a lady a letter threatening to burn her house and murder her unless she sent him a guinea and a half. Before sentence he begged for mercy, saying he did not know the severe penalty allotted for his offence.

13 DECEMBER.—When Lord Ellenborough relinquished the office of Chief Justice of the King's Bench in November, 1818, his family hoped that rest would rally his failing health, but the excitement of office being removed, he only sank the more rapidly. On the 13th December, having piously received the last consolations of religion, he calmly expired at his great house in St. James's-square. In the solemn darkness of a dense fog, his remains were carried to the Founder's vault in the Charter-house, where he had been educated.

14 DECEMBER.—Chief Baron Manwood was one of the least reputable of our judges, and, in 1591, he was just getting to the end of his tether, incurring the Queen's displeasure by the sale of one of the offices in his gift. This was only one of his misdeeds. The Lieutenant of Dover Castle charged him with deliberate perversion of justice in the courts, and the Suffragan Bishop of Dover accused him of selling the Queen's pardon in a murder case for £240. In April, 1592, he was arraigned before the Privy Council, but contemptuously refused to recognise its jurisdiction, and was consequently confined in his own house till he apologised. Shortly afterwards we find him offering a heavy sum for the Chief Justiceship of the King's Bench. He did not get it, and on the 14th December, in the same year, he died.

15 DECEMBER.—Lord Chief Justice Willes died on the 15th December, 1761, at the advanced age of seventy-six, four years after disappointing himself of the Chancellorship. For many years he had anxiously waited for Lord Hardwicke to relinquish the Great Seal, but when at last it was offered to him, he unwisely held out for a peerage as well, never doubting that he would get it. To his indignation, the offer was withdrawn and he lived the rest of his life an embittered man.

THE WEEK'S PERSONALITY.

The Reverend Thomas Thurlow was a country clergyman with small means and a poor living. All he could give his children was a good education, and he used to tell his sons that once he had launched them in a profession, he could do nothing for them, but to his friends he would say: "I have no fear about Ned; *he* will fight his way in the world." And he was right, for one son became Mayor of Norwich, another Bishop of Durham, but Ned rose highest of all and sat upon the Woolsack. Not only his father appreciated his promise. Another clergyman who knew him as a child said when he heard that he was destined for the Bar: "I shall live to see you Lord Chancellor." Forty years afterwards he obtained from him a stall in Norwich Cathedral and a living in Suffolk. Starting with no advantages of family connections, Edward Thurlow never afterwards had any pretentions. In his great days, when someone tried to flatter him by asking whether he was descended from Thurloe, Cromwell's Secretary, who was from Suffolk, he replied: "Sir, there were two Thurlows in that part of the country who flourished about the same time. Thurloe, the secretary, and Thurlow, the carrier. I am descended from the last." But on his entry into the House of Lords, he had silenced with a verbal thunderbolt a duke who sneered at his extraction.

HEAD COVERING.

A Jew who appeared as a judgment debtor at Shoreditch County Court recently, found when he came to take the oath that he had no hat; he, therefore, placed his judgment summons on his head. The custom and this odd observance of it recalls a curious little incident in the story of Lord George Gordon. It will be remembered that, after the "No Popery" riots which he instigated, he spent some time in Newgate where he became a convert to Judaism. When the time of his imprisonment had expired he was brought to the Court of King's Bench to give security for his good behaviour. He had an enormous beard and wore a large slouched hat. When ordered to remove it, he refused, and the crier, by direction of the court, took it off. Lord George then deliberately took a white cap from his pocket and tied it on with a handkerchief. Having done so, he produced a paper headed: "The Petition of Israel Abraham George Gordon, commonly called Lord George Gordon." He explained that it was an apology for appearing in court covered according to Jewish custom, and that his action arose purely from tenderness of conscience. His petition, read by the officer of the court, contained many learned arguments from Jewish writers in favour of appearing before all men with the head covered.

THE PROOF OF THE BOTTLE.

A mysterious looking bottle of red liquid from which a plaintiff in person dramatically poured himself a drink in the course of his speech caused an odd incident in the course of a lively case at the Manchester Assizes recently, when the opposing leader cautiously intervened and confiscated both glass and bottle. "They would not let me take it," he complained to the jury in his address. "My friend seems to think it is poison. Take it," he added, to the defendant's "silk"; "it will steady your nerves." It was a cure for neuritis, he assured the listening jurors, and he had sold 40,000 bottles. This plaintiff's eagerness to demonstrate his concoction's virtues by personal example recalls a delightful gesture of Tim Healy in a case in which he was appearing for a defendant who was alleged to have polluted the water of a stream, his contention being that it was absolutely pure and undefiled. In the course of his speech, he suddenly made a dramatic pause. "They say the water is polluted," he exclaimed. "My lord, look at it. There is a sample." He then drew from his pocket a bottle which he uncorked and drank, adding with great solemnity: "The first drink of water I have had for many a year.

"APPEALS" WHICH SHOULD NOT BE DISMISSED.

It is our custom at this season of the year to call attention to the appeals made by organised charitable institutions, and our efforts in the past have, we venture to hope, met with a certain amount of success. The lot of the sick and needy and other victims of misfortune has a special claim upon human sympathy at Christmas time, and we feel, therefore, that it is our duty to make our special appeal as on previous occasions. The following are a few excellent examples of the many deserving institutions which are badly in need of support:—

There are always 8,300 children in Dr. Barnardo's Homes—the largest family in the world—all of whom became members by reason of their destitution, for the Charter of the Homes is "No destitute child ever refused admission," and on an average five children are admitted every day. The Homes, which are in their seventieth year, have sheltered 117,500 children. Over 1,500 young people leave them each year trained and fitted to take their places in the world. Dr. Barnardo's Homes earnestly invite the co-operation of all child lovers to make this a really happy Christmas for every boy and girl in their large family. Donations will be gratefully received by The Treasurer, Dr. Barnardo's Homes, 18-26, Stepney-causeway, London, E.1.

The Shaftesbury Society and R.S.U. is in its ninety-second year of varied service for thousands of children and families crowded into miserable homes in squalid streets. About 5,500 voluntary helpers are engaged in the associated missions in Greater London. Gifts of money or of goods will be gratefully acknowledged if sent to: Arthur Black, General Secretary, John Kirk House, 32, John-street, W.C.1.

Among the many other deserving charities whose principal objects are child welfare, should not be forgotten the N.S.P.C.C., Spurgeon's Orphan Homes, Homeless Children's Aid and Adoption Society, Royal Soldiers Daughters' Home, and the Homes for Waifs and Strays. Funds for carrying on their good work are urgently needed by these deserving institutions, and gifts and donations should be sent respectively to the N.S.P.C.C., Victory House, Leicester-square, W.C.2; Spurgeon's Orphan Homes, Clapham-road, Stockwell, S.W.9; The Homeless Children's Aid and Adoption Society, 93, Westminster Bridge-road, S.E.1; Royal Soldiers Daughters' Home, 65, Rosslyn Hill, Hampstead, N.W.3; and the Church of England Incorporated Society for Providing Homes for Waifs and Strays, Kennington, S.E.11.

We feel that this appeal would not be complete without mention being made of the splendid work done by our many hospitals, and special attention is called to a few urgently in need of funds. Cancer is a painful thing to think of; but the Cancer Hospital is a cheering thing. The hospital has a splendid record, not only of devoted healing and nursing work, but in the vitally important service of cancer research. Legacies, subscriptions and donations will be welcomed by the Secretary, The Cancer Hospital, Fulham-road, S.W.3. The Imperial Cancer Research Fund carries on a work of the greatest importance to mankind, and donations in support of this fund should be sent to the Treasurers, Queen-square, W.C.1. Assistance is also required by the British Empire Cancer Campaign, of 12, Grosvenor-crescent, S.W.1, and the National Society for Cancer Relief, of 15, Ranelagh-road, S.W.1, which carry on a work of the greatest importance to mankind.

The Hospital for Sick Children in Great Ormond Street, W.C.1, and the Princess Louise Hospital for Children, St. Quintin-avenue, W.10, are in need of help; as also are the Brompton Hospital for Consumption and Diseases of the Chest, S.W.3, and the Hospital for Epilepsy and Paralysis, Maida Vale, W.9.

At St. John's Hospital, Leicester-square, W.C.2, over 1,000 cases of diseases of the skin are treated every week in the Out-Patient Department and the In-Patient Department has forty beds and a waiting list of patients. This hospital had no endowment, and subscriptions, donations and legacies are urgently needed.

There are many other hospitals in need of assistance, and of these we feel that Westminster Hospital, S.W.1, Guy's Hospital, at London Bridge, S.E.1, and the National Hospital in Queen-square, W.C.1, should not be forgotten.

The Royal Surgical Aid Society, which was established in 1862 to supply spinal supports, artificial limbs, etc., has supplied over 1,590,000 appliances to the poor. Donations will be gratefully received by the Secretary at the offices of the Society, Salisbury-square, Fleet-street, E.C.4.

Of the charities not confined to the care of the sick or of children, St. Dunstan's, whose headquarters are at Inner Circle, Regent's Park, N.W.1, is one of the best known. Before the War becomes a memory, St. Dunstan's must be furnished with the funds required to guarantee the care of the blinded soldiers until the last of them dies. The policy of the Council of St. Dunstan's accordingly is to raise a fund, based upon actuarial calculation, during the years to come that will make certain that this amount is realised. A special appeal is also made on behalf of Earl Haig's British Legion Appeal Fund, and there is little doubt that a Christmas present, large or small, addressed to Captain Willcox, Haig House, Ecclestonsquare, S.W.1, on behalf of that fund would be doubly welcome.

For some years past, the development of a spirit of self-help among our sightless population has been the main aim of the National Institute for the Blind, of 224-6-8, Great Portland-street, W.1. Apart from its Sunshine Homes for Blind Babies, care of the aged and infirm, production of embossed literature, and other charitable activities, the Institute is following a definite programme to enable the blind to become self-supporting citizens.

Thousands of blind readers also derive their happiness from books produced and loaned free by the National Library for the Blind, of 35, Great Smith-street, S.W.1.

The National Institute for the Deaf, of 105, Gower-street, W.C.1, is the only organisation engaged in promoting the complete welfare of the 40,000 deaf and dumb. Funds are urgently required for maintenance and extension of its humanitarian task.

A vital service to the nation is also given by the Church Army and the Salvation Army. Support is needed for this work, and donations should be sent to Preb. Carlile, C.H., D.D., Hon. Chief Secretary, 55, Bryanston-street, S.W.1, and to 101, Queen Victoria-street, E.C.4, respectively.

The work and influence for good of the British Sailors Society is so well known that it is only necessary to mention here that their work of providing home and overseas rest for sailors, and caring for their widows and orphans, cannot continue without generous support, which should be addressed to the society's headquarters, 680, Commercial-road, E.14.

The Central Discharged Prisoners' Aid Society, of Rooms 34-35, Victory House, Leicester-square, W.C.2, needs support to enable it to carry on its activities in caring for discharged prisoners and dependents of those serving sentences.

Funds are needed to assist the ever-increasing number of deserving cases looked after by the Distressed Gentlefolks Aid Association, 75, Brook-green, S.W.6, The National Benevolent Institution, 65, Southampton-row, W.C.1, and Miss Smallwood's Society for the Assistance of Ladies in Reduced Circumstances, Lancaster House, Malvern.

The People's Dispensary for Sick Animals, of 14, Clifford-street, New Bond-street, W.1, requires assistance to enable it to carry on its good work in the treatment of animals.

We cannot conclude this appeal without referring to the organisations the objects of which are most directly concerned with members of the legal profession. Of these, The Law

Association, 3, Gray's Inn Place, W.C.1, and The Solicitors' Benevolent Association, 2, Stone-buildings, Lincoln's Inn, W.C.2, would be grateful for any assistance however small.

The above are obviously only a few of the many and varied charitable organisations urgently in need of funds, but we hope that perhaps this short mention of them may assist readers of this page who desire, at this season of the year, to make some small contribution to the happiness and welfare of those less fortunate than themselves.

Notes of Cases.

House of Lords.

Great Western Railway Company *v.* Licensing Authority for West Midland Traffic Area.

Lord Blanesburgh, Lord Atkin, Lord Russell of Killowen, Lord Macmillan and Lord Maugham. 29th October, 1935.

Limited Carriers' Licences—"Any Distance."

This was an appeal by the Great Western Railway Company from an order of the Court of Appeal, dated 4th February, 1935, reversing an order of the Divisional Court of the King's Bench Division, dated 12th December, 1934. The Divisional Court had made absolute a rule *nisi* for *certiorari* obtained at the instance of the present appellants, calling on the respondent, the Licensing Authority for the West Midland Traffic Area, to show cause why the decision of the licensing authority to grant to Hill & Long, Ltd., house furnishers, of West Bromwich, a limited carriers' licence, a B licence, to use two vehicles for the purpose of furniture removing over any distance, should not be quashed. The question involved in the appeal was whether the respondent had jurisdiction to grant a licence for the carriage of furniture "any distance" when a particular district for the exercise of the licence had been indicated in the application and specified in the notice thereof published by the respondent for the information of potential objectors. On the application form for the licence, Hill & Long, Ltd., stated that the districts in which or places between which the vehicles would be used were Birmingham, Wolverhampton, Sutton and Hagley, and that the nature of the business was "furniture removing and delivery of furniture."

Lord Blanesburgh, in giving judgment, said that the appeal failed. There was in the case of an A licence no power under the Act to restrict its operation to the districts or places specified. Nor was there any such in the case of a B licence, except in the way authorised by s. 8 (3) (*a*). That made clear what in itself was, perhaps, clear enough, namely, that "normally" was the emphatic word in sub-s. (5) (1) (*c*), and from its use alone he would draw the conclusion that while only exceptional use outside what he might call the area of normal use was expected, it was the assumption of the subsection in correspondence with the other provisions of the Act to which he had referred, that the B licence, when granted, as a rule, no less than the A licence, would always be unrestricted as to the area over which it extended. It appeared to him that when Hill & Long, Ltd., using the prescribed form, applied for a B licence, specifying Birmingham, Wolverhampton, Sutton and Hagley, as being the districts on which the vehicles would normally be used, they were implicitly making an application for a B licence unrestricted in area. It was within the power of the licensing authority to grant that licence if, on statutory conditions being complied with, it thought fit to grant it. The licence only continued for a year, and if on an application for a further licence it appeared that the area of normal use had been exceeded that would be an opportunity either for refusing the licence in a second year or for limiting its operation to a prescribed area. He saw no excess of jurisdiction in the decision of the licensing authority, and he moved that the appeal be dismissed, with costs.

The other noble and learned Lords delivered judgments dismissing the appeal.

Counsel: *W. T. Monckton*, K.C. *W. S. Morrison*, K.C. and *B. de H. Pereira*; *The Attorney-General* (Sir Thomas Inskip, K.C.), and *Valentine Holmes*.

Solicitors: *A. G. Hubbard*; *The Treasury Solicitor*.

[Reported by S. E. Williams, Esq., Barrister-at-Law].

Court of Appeal.

Rex *v.* Income Tax Special Commissioners: *Ex parte* Elmhirst.

Lord Wright, M.R., Romer and Greene, L.JJ. 2nd and 3rd December, 1935.

Revenue—Additional Assessment to Income Tax—Notice of Appeal to Special Commissioners—Purported withdrawal—Refusal of Commissioners to Permit Appeal to be withdrawn—Jurisdiction—Income Tax Act, 1918 (8 & 9 Geo. 5, c. 40).

Appeal from the King's Bench Division.

In 1932, an additional assessment to income tax was made on E for the financial year ending in April, 1926. In July, 1932, notice of appeal was given on his behalf to the Special Commissioners of Income Tax. In November, 1933, he gave notice purporting to withdraw the appeal, but the Special Commissioners refused to permit it to be withdrawn. A rule *nisi* for a writ of prohibition to prohibit them from hearing the appeal having been granted, the Divisional Court discharged the rule, holding that the lodging of the appeal made it obligatory on the Commissioners to say what the true assessment should be. E appealed.

Lord Wright, M.R., dismissing the appeal, said that the Commissioners in making assessments and dealing with appeals exercised a statutory duty which they were bound to carry out. They were not in the position of judges dealing with an issue between two particular parties, but were fixing the amount which, in the interests of the country at large, the taxpayer should pay. The sections of Pt. VII of the Income Tax Act, 1918, were treated as a code and should be read together. It appeared from it that the Commissioners had a statutory duty of ascertaining the sum to which the taxpayer should be assessed and of making the assessment in accordance with their judgment. The notice of appeal was not an act from which the taxpayer could withdraw at any moment, preventing the Commissioners from settling the sum which should be assessed.

Romer and Greene, L.JJ., agreed.

Counsel: *J. Tucker*, K.C., and *J. Scrimgeour*; *The Attorney-General* (Sir Thomas Inskip, K.C.), and *R. Hills*.

Solicitors: *McKenna & Co.*; *Solicitor of Inland Revenue*.

[Reported by Francis H. Cowper, Esq., Barrister-at-Law.]

Smart *v.* Lincolnshire Sugar Co. Ltd.

Lord Wright, M.R., Romer and Green, L.JJ. 4th and 5th December, 1935.

Revenue—Income Tax—Sugar Subsidy—"Advances" to Company—Whether Assessable—British Sugar (Subsidy) Act, 1925 (15 Geo. 5, c. 12) Sugar Industry (Assistance) Act, 1931 (21 & 22 Geo. 5, c. 35).

Appeal from a decision of Finlay, J. (79 Sol. J. 593).

Under the British Sugar (Subsidy) Act, 1925, the company, which manufactured sugar from beet grown in Great Britain, received certain sums by way of subsidy. These were included in their profit and loss accounts as trading receipts and so treated in the calculation of their profits for income tax. Certain companies, despite subsidies under the Act, found difficulty in carrying on trade as Parliament desired and the British Sugar (Assistance) Act, 1931, was passed, being described as "an Act to provide for the making of advances to

certain companies . . ." Under this Act the company between the 18th October, 1931, and the 3rd January, 1932, received advances totalling £17,494. Although under the Act they were liable to become repayable by means of deductions from any subsidies payable under the Act of 1925, if sugar prices attained a certain level, they did not in fact become repayable. The provisions under the Act for repayment in the event of a winding up or the appointment of a receiver did not become operative. Finlay, J., held that the sums advanced were loans and should not be taken into account in the assessment of the respondent's income tax for the year in question. The Crown appealed.

LORD WRIGHT, M.R., allowing the appeal, said that the company had argued that the word "advances" meant a loan and that the obligation to repay was conclusive. The Crown had argued that it meant a prepayment of subsidies falling due under the Act of 1925 and that it had none of the marks of a loan such as an obligation to pay interest on an unqualified obligation to repay. The decision must turn on the particular facts of the case, all the circumstances being borne in mind. This was an anomalous payment which did not constitute a loan. The company was only obliged to submit to deductions in certain circumstances. For instance, there was no obligation imposed on it to continue to carry on business, and if it did not there could be no possibility of repayment. Section 2 (3) did not affect this point, being merely a provision that in a winding up money given by the Government should not go to benefit the general body of creditors. It had also been argued by the company that these payments were made by way of capital (see *Seaham Harbour Dock Co.* v. *Crook*, 47 T.L.R. 23), but they were trading receipts to enable the company to meet particular difficulties. As to the contingent liability to repay, it was enough to say that it had proved one which could be disregarded in this assessment.

ROMER and GREENE, L.JJ., agreed.

COUNSEL: *The Attorney-General* (Sir Thomas Inskip, K.C.) and *R. Hills*; *Borneman*.

SOLICITORS: *Solicitor of Inland Revenue*; *Romer, Skan & Brashier*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Marriott *v.* Minister of Health.

Swift, J. 28th and 29th October, 1935.

HOUSING—CLEARANCE AREA—COMPULSORY PURCHASE ORDER—PUBLIC LOCAL ENQUIRY—EFFECT OF IRREGULARITIES AT—HOUSES DEMOLISHED BY OWNER BEFORE ORDER CONFIRMED—CONFIRMATION OF ORDER—WHETHER WITHIN STATUTORY POWERS—HOUSING ACT, 1930 (20 & 21 Geo. 5, c. 39), ss. 1, 10, 11 (3), 26 (1).

Application by J. Marriott under s. 11 (3) of the Housing Act, 1930, to have quashed by the court a compulsory purchase order made and confirmed under that Act.

The order was made by the Nottingham Corporation on the 24th June, 1934, and confirmed by the Minister of Health on the 16th January, 1935. The application was made on the grounds (*a*) that at the public local enquiry with respect to the order the Minister had refused to hear evidence of an agreement for the purchase from the corporation by one, Gibbon, of part of the land included in the order, and (*b*) that the order was not confirmed for any of the purposes of the Act, because power was sought under it to demolish houses which had already been demolished by the applicant at the date of the confirmation. The following were the facts: On the 4th June, 1934, the Nottingham Corporation by resolution made two orders, one declaring a certain area to be a clearance area, and the other a compulsory purchase order authorising the compulsory purchase of part of the land in the area. Twenty-seven houses out of the thirty-nine in the area belonged to the applicant. On the 21st July, 1934, the applicant instructed his builder to demolish all the twenty-seven houses, and the work of demolition began on the 26th. On the 30th July, notice of the orders was served on the applicant, and on the 7th August they were submitted to the Minister. On the 15th August, the applicant's solicitors gave notice of the applicant's objection. Before the 2nd October, 1934, all the twenty-seven houses had been completely demolished. On that date, the public local enquiry, which was held by an inspector appointed by the Minister, began; the applicant's objection was considered at the enquiry, and he proved the fact of the demolition. On the 16th January the Minister confirmed the order, giving as his reason for doing so that the expense of providing other accommodation for persons displaced would thereby rank for a grant under s. 26 of the Act.

SWIFT, J., in giving judgment, said that with regard to the applicant's first contention, it was necessary to consider the position of the person holding the enquiry. He was not a judge in the ordinary sense. His duties had been conveniently described as quasi-judicial. What such a person had to do was laid down clearly by the House of Lords in *Local Government Board* v. *Arlidge* [1915] A.C. 120, which decided that a person holding an enquiry of this nature had to ensure that all the contending parties were given a proper opportunity of submitting their contentions and evidence. It was at the same time necessary to guard oneself from saying that any irregularity was sufficient to vitiate the proceedings. For that there must be some impropriety which went to the root of the whole matter. Here evidence had been tendered of the agreement between the corporation and Gibbons, but on the inspector's saying that he did not think it relevant, the applicant's solicitor had not pressed the matter any further. In his (his lordship's) opinion, the inspector who conducted the enquiry had made it quite clear that he did not wish to preclude the evidence if the applicant's solicitor thought it worth while to proceed with it. It was one of the commonplaces of litigation that the court gave a hint and that advocates took a hint. In the circumstances, therefore, that ground for the application failed. With regard to the second ground, the corporation, after passing a resolution, had, under s. 1 (3) of the Act, two courses open to them. They could either order the owners to pull down the houses, in which case the site remained the property of the owners, or purchase the site and pull the houses down themselves. The applicant had not waited to see which course was adopted. He had proceeded to take the houses down himself, so that, when the enquiry took place, there were no houses on the site and there was nothing to be demolished. Nobody, it had been contended, could, after that had happened, proceed to secure a clearance of the area. It had already been cleared and could not be cleared again. The land in question was the property of the applicant. If he had waited, he would have had to deal with it as ordered; but, as he had not waited, the corporation could not now say that they were entitled to buy the land in order to demolish houses on it which had already been demolished. The compulsory purchase order was for those reasons not within the powers conferred by the Act and must accordingly be quashed.

COUNSEL: *R. M. Montgomery*, K.C., and *A. Capewell*, for the applicant; *The Solicitor-General* (Sir Donald Somervell, K.C.), *Valentine Holmes* and *H. Milmo*, for the Minister of Health.

SOLICITORS: *Torr & Co.*, agents for *J. A. Simpson, Coulby and Drabble*, Nottingham; *Solicitor to the Ministry of Health*.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

CORRECTION: LAW OF PROPERTY ACTS LECTURE.

We are indebted to one of our readers for drawing our attention to a misprint which occurred at p. 877 of our issue of 23rd November: "s. 82," eleven lines from the bottom of the second column, should read "s. 84 (2)." We have been authorised by Mr. Topham to publish this correction.

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Mr. Edward Meade-King, solicitor, of Cleeve, Somerset, left estate of the gross value of £43,456, with net personalty £36,279. He left, subject to his wife's life interest, £250 each to the Bristol General Hospital and the Bristol Royal Infirmary, on condition "that no experiments on living animals have been carried out on the premises for a period of five years prior to the date of actual payment"; £100 each to the Bristol Eye Hospital and the Children's Hospital, St. Michael's-hill, Bristol; and £100 to the Bristol and West of England Anti-Vivisection Society.

The Law Society.

FINAL EXAMINATION.

The following Candidates (whose names are in alphabetical order) were successful at the Final Examination held on the 4th and 5th November, 1935 :—

William Stuart Addiscott, William Frederick Alborn, James Austin, LL.B. London, George Frederick Curtis Avant, William Michael Baker, Colin Browne Barber, George Cuthbert William Barker, Eustace Sweeting Barnes, William Paul Barrell, LL.B. Liverpool, Claude Anthony Wake Beaumont, B.A. Oxon, Sydney Corbin Nicholls Beavan, Richard James Beaven, Geoffrey Noden Bell, William McKnight Bell, Alfred Lovell Berridge, Wilfrid Thomas Beswick, John Bigland Tulk-Hart Bigland, Godfrey Charles D'Arcy Biss, M.A. Oxon, Terence Aldridge Wilson Boardman, Alfred John Booth, M.A. Cantab., Bertram Frank Boyles, Norman Alexander Brackenbury, Edward Kenneth Bridges, Sidney George Bristowe, John Michael Bryce-Smith, James Graeme Bryson, LL.M. Liverpool, Ernest Henry Bullock, Frederick Osborne Bullough, LL.B. Manchester, Gilbert Patrick Bumstead, Philip Stephen Burnett, B.A. London, Wilfred Burnstone, LL.B. Leeds, Frederick John Camenisch, B.A. Oxon, John Alan Carpenter, Douglas Patrick Levis Carslaw, Anthony Moseley Channer, Leonard William Chetwood, Edmund Valentine Chiswell, Thomas Henry Church, Allen Thomas Richard Clark, Charles Leslie Clarke, William Arnold Clarke, William Henry Morton Clifford, M.A. Cantab., Francis Frederick Clough, LL.B. Manchester, Charles George Coates, Basil Graham Morris Codd, Geoffrey Cohen, Ralph Cohen, Reginald James Herbert Cooke, B.A. Oxon, George Bart Cooper, Ronald Crowther, LL.B. Leeds, Norman Cumpsty, LL.B. Liverpool, Eileen Mary Adcock Cushman, Charles Joseph Maxwell Daulton, Cyril Davenport, B.A. Oxon, Hubert Edwin Davies, Ivor Mervyn Davies, Richard David Trevor Davies, Hyman Davis, Nathan Davis, LL.B. Manchester, Sydney Herbert Daviss, John Gilbert Dean, George Francis Heffernan Dennehy, Harold Leslie Dibben, Roderick Lawrence Doble, B.A. Cantab., James Thomas Eccles, Dorothy Edith Edwards, John Edwards, Alfred John Leslie Ekins, John William Emmerson, Russell Evans, Bernard Fielding, LL.B. London, William Freeman, John Speight Gaitskell, Gilbert Gordon Gartside, Alan George Gilbert, Neville Gill, Raymond Claridge Gill, LL.B. London, Frederick Luke Glover, Edward Willis Gocher, B.A. Cantab., Godfrey Armstrong Goldhawk, Sydney Elland Goldsmith, LL.B. Liverpool, Abraham Goodman, LL.B. London, John Cecil Gow, B.A. Cantab., William Richard Gowers, B.A. Cantab., Jeffrey Graham, Albert Norman Groome, LL.B. London, John Eveleth Guest, James Louis Theodore Guise, B.A. Oxon, Douglas Linley Gulland, Clifford Leyland Hagger, James Ashworth Hall, B.A. Cantab., James Alexander Stewart Hamilton, B.A. Oxon, Cecil Harry Noel Hamilton-Miller, B.A. Cantab., Kenneth Davison Hanna, Thomas Dewar Hardy, LL.B. Liverpool, Michael Talbot Harraway, Frederick Woollcombe Harris, B.A. Cantab., Leslie Taylor Harris, B.A. Oxon, Christopher Charles Dudley Hart, Lemon Evelyn Oliver Turton Hart, Benjamin James Hartwell, LL.M. London, Jack Harvey, William Anthony Hazel, Dorothy Hedges, James Patrick Henderson, B.A. Cantab., Albert John Henman, Thomas Oswald Lascelles Heron, Herbert Leslie Hill, Wycliffe Percy Hill, John Gilbert Hillier, Charles James Hilling, Robert Francis Hills, Harry Bernard Hollick, Leonard Alexander Hope, Samuel Spencer Hosegood, Ralph Mosley Curtois Howard, B.A. Cantab., Edward William Huddart, Archibald Owen Hughes, LL.M. Liverpool, Harold Kirk Hughes, B.A., LL.B. Cantab., Ralph Hacking Hulme, Ambrose John Hutton-Squire, B.A. Cantab., Jacob Myer Isaacs, Capel Jacklyn, Frederick Arthur Caunter Jackson, Leslie Wearing Jackson, William Gwynfor James, Sidney Jaque, Charles Derek Fraser Jenkins, Lawrence Cribb Jenkins, Emyr Jones, Harry Wise Jones, John Tegryd Jones, Edward Stanislaus Colyer Kendall, John Reid Kennedy, B.A., LL.B. Cantab., Robert Pender Kent, Edward Ryley King, Roderick Sydney King-Farlow, M.A., LL.B. Cantab., Samuel John James Kirby, Harry Kirk, B.A. Oxon, Walter Lawrence Kitchen, Agnes Winifred Knight, Andrew Filz Laird, B.A. Cantab., Wilfred Carlton Lawson, Edgar Alan Salt Ledsam, B.A., LL.B. Cantab., Eustace Ronald Lee, B.A. Oxon, Stanley Lawrence Lees, B.A. Oxon, Norman Walter Leigh, Barbara Littlewood, B.Sc. London, Samuel Morlais Jones Lloyd, William Ewart Lloyd, John Mundy Lodder, B.A. Oxon, James McDowall, Charles Benjamin Maclaurin Maddox, LL.B. London, Peter Anthony Martin Malcolm, B.A. Oxon, Jack Arthur Males, Arthur Reginald Cox Marler, John Newby Mason, M.A. Cantab., Oscar Mason, Anthony Lewis Worsfold Mayo, Maurice Mead, George Francis Medlam, David Glyndwr Meredith, B.A. Wales, Harold Miller, LL.B. London, John

Mills, Peter Albert Nigel Milmo, B.A. Cantab., Basil Minor' Edward Alexander Morling, John Douglas Morton, B.A., B.C.L. Oxon, Frank William Moss, B.A. Oxon, Richard Stanley Mudie, Simon Mundy, B.A. London, Guy Darnley Naylor, B.A. Cantab., Cecil Henry Netcott, LL.B. London, Edgar Frederick Norman, LL.B. London, Kenneth Bilson Nunn, Jacob Joseph Nussbaum, LL.B. Liverpool, Sidney James Nutt, William Geoffrey Ronald Oates, Walter Arthur Munday Oram, Charles John Pack, Charles Vincent Parker, Frederic Archibald Parker, M.A. Cantab., Ronald Jamieson Parker, Alan Paterson, B.A., LL.B. Cantab., Godfrey Martin Ellis Paulson, B.A. Cantab., Harold Pawson, James Bertrand Guy Payen-Payne, B.A. Oxon, Henry Peck, Percy John Pepler, Richard Gerald Peter, Francis Roy Phillips, Ellis Fisher Pinkney, Charles Hubert Pinsent, Ronald Chrysostom Politeyan, B.A. Cantab., William Frank Potts, Arthur Langdon Joseph Prime, John Kenneth Read, Gilbert Stanley Nowell Richards, LL.B. London, Bernard Richardson, Theodore Hertzl Richardson, LL.B. London, Robert Humfrey Vere Rintoul, B.A. Oxon, Richard Michael Ritchie, B.A. Cantab., Richard Lancelot Robinson, LL.B. London, James Roe, Percy Thomas Caswall Rolt, Anthony Charles Graham Rothera, William McNaught Ruddick, Harold Jack Russell, William Francis Ryan, Lionel Charles Rysdale, B.A. Cantab., Richard Hugh Salmon, Florence Ruth Saunders-Jacobs, LL.B. London, David Miller Scott, B.A. Cantab., William Garfield Scown, Gordon Sheldon, Adam John Shirren, Roger Eric Bate Smith, Reginald Henry Don Sparrow, Harold Evan Spicer, M.A. Cantab., Josiah Lewis Spiller, James Stables, Thomas Samuel Steel, Peter Duguid Heath Stock, Alastair George Corsar Sturrock, B.A. Oxon, Kenneth Robert Swan, Robert Herman Tattersall, B.A. Cantab., Edward Rolland McNab Taylor, George Wilfred Taylor, Theodore Joseph Christopher von Sobbe Taylor, LL.B. Liverpool, Ernest Lawrence Thackray, LL.B. Manchester, Alan Thomas, Basil Anthony Thomas, John Henwood Thomas, Wynne Simpson Thomas, William Sumner Thompson, Basil Ludlow Thorne, B.A., LL.B. Cantab., Henry Philip Verey, B.A. Cantab., Norman Vincent, Philip Victor Wade, Arthur Davidson Wadsworth, Charles Gerald Walkden, LL.B. Manchester, John Studley Prest Walker, LL.B. Leeds, Dudley James Ward, Geoffrey Warhurst, Roger Andrew Weeley, Emanuel Weisbach, William Charles Russell West, John Henry Mortimer Weston, B.A. Cantab., Malcolm Hele Wheeler, B.A. Oxon, William Jolliffe Whitewood, William Ewen Whitwell, Harry Dewar Wight, Richard Sansum Willes, Alan Thurstan Williams, LL.B. London, Arthur Vivian Williams, B.A. Oxon, George Vernon Williams, B.A. Oxon, LL.B. London, John Richard Williams, John Stewart Williams, B.A., B.C.L. Oxon, Roger Patrick Clason Williams, James Reginald Wilson, B.A. Cantab., Swinburn James Wilson, Thomas James Wilson, George Robert Winter, Robert Archibald Wolverson, B.A. Cantab., Alan James Wood, William Peter Wood, Jack George Woodman, Howard Guy Wootton, Eric John Gipson Wright, Noel Charles Wright, Nicholas William Harvey Wyllys.

No. of Candidates, 408. Passed, 271.

The Council have awarded the following Prize: To Albert John Henman, who served his Articles of Clerkship with Mr. Francis Eden Marshall, M.A., of the firm of Messrs. Marshall & Eldridge, of Oxford; and Theodore Joseph Christopher von Sobbe Taylor, LL.B. Liverpool, who served his Articles of Clerkship with Mr. William Ernest Taylor, of the firm of Messrs. Banks, Kendall, Taylor & Gorst, of Liverpool, each the John Mackrell Prize, value about £11 11s.

Parliamentary News.

Progress of Bills.

House of Lords.

Bridge of Allan Gas Order Confirmation Bill.
Read Third Time. [11th December.
Government of India (Reprinting) Bill.
Read Third Time. [11th December.
Hours of Employment (Conventions) Bill.
Read First Time. [10th December.
Judiciary (Safeguarding) Bill.
Read First Time. [5th December.
National Trust for Scotland Order Confirmation Bill.
Read Third Time. [11th December.
Perth Corporation Order Confirmation Bill.
Read Third Time. [11th December.
Rothesay Corporation Gas Order Confirmation Bill.
Read Third Time. [11th December.
Voluntary Hospitals (Paying Patients) Bill.
Read Second Time. [10th December.

House of Commons.

Bridge of Allan Gas Order Confirmation Bill.
Read First Time. [11th December.
Cotton Spinning Industry Bill.
Read First Time. [11th December.
Employment of Women and Young Persons Bill.
Read First Time. [5th December.
Expiring Laws Continuance Bill.
Read Second Time. [9th December.
Government of India (Reprinting) Bill.
Read First Time. [11th December.
Ministry of Health Provisional Order (Bury and District Joint Hospital District) Bill.
Read First Time. [11th December.
Ministry of Health Provisional Order (Chester and Derby) Bill.
Read First Time. [11th December.
Ministry of Health Provisional Order (North East Lindsey Joint Hospital District) Bill.
Read First Time. [11th December.
Ministry of Health Provisional Order (South Staffordshire Joint Smallpox Hospital District) Bill.
Read First Time. [11th December.
National Trust for Scotland Order Confirmation Bill.
Read First Time. [11th December.
Perth Corporation Order Confirmation Bill.
Read First Time. [11th December.
Rothesay Corporation Gas Order Confirmation Bill.
Read First Time. [11th December.

Questions to Ministers.

HOUSING (OVERCROWDING).

Mr. G. WHITE asked the Minister of Health whether he can make a statement with regard to the progress made by local authorities in carrying out the survey of conditions of overcrowding under the Housing Act, 1935?

Sir K. WOOD: I have fixed the 1st April, 1936, as the date by which the survey should be completed, and I have every reason to believe that local authorities generally will complete the task in the allotted time. In most areas the survey has already started or will be commenced at an early date.

[5th December.

Christmas Vacation, 1935-36.

NOTICE.

There will be no sitting in Court during the Christmas Vacation.

During the Christmas Vacation all applications "which may require to be immediately or promptly heard," are to be made to the Honourable Mr. Justice GREAVES-LORD.

The Honourable Mr. Justice GREAVES-LORD will act as Vacation Judge from Monday, 23rd December, 1935, to Friday, 10th January, 1936, both days inclusive. His lordship will sit in King's Bench Judges' Chambers on Thursday, 2nd January, and Thursday, 9th January, at 10.30 a.m. On other days within the above period, applications in urgent matters may be made to his lordship, personally or by post.

When applications are made by post the brief of counsel should be sent to the Judge, by post or rail prepaid, accompanied by office copies of the affidavits in support of the application, and also by a minute, on a separate sheet of paper, signed by Counsel, of the order he may consider the applicant entitled to, and also an envelope, sufficiently stamped, capable of receiving the papers, addressed as follows:—"Chancery Official Letter: To the Registrar in Vacation, Chancery Registrar's Chambers, Royal Courts of Justice, London, W.C.2."

The papers sent to the Judge will be returned to the Registrar.

The address of the Vacation Judge can be obtained on application at the Chancery Registrar's Chambers, Room 136, Royal Courts of Justice.

CHANCERY REGISTRARS' CHAMBERS,
ROYAL COURTS OF JUSTICE.
December, 1935.

RENEWAL OF PRACTISING CERTIFICATES.

We would again remind our readers that Solicitors' Practising Certificates for 1935-36 should be renewed before the 15th December. All certificates on which the duty is paid after the 1st January next must be left with The Law Society for entry, and the names of solicitors taking out their certificates after that date cannot be included in the Law List for 1936.

Societies.

The Solicitors' Managing Clerks' Association.

FESTIVAL DINNER.

This association held its Festival Dinner at the Wharncliffe Rooms, on the 5th December, with Mr. S. H. VERE, the President, in the chair. There was a record attendance, over 400 members and their friends and guests being present. After the gathering had honoured the toasts of "The King," "The Queen" and "The Prince of Wales and other Members of the Royal Family," the Lord Chief Justice, LORD HEWART, proposed the health of the association. He related a story about a clergyman who had once been a vicar at Cowes and had returned on a visit to preach to his old parishioners; he had begun his discourse by the words: "I should like to say what a delight it is to me once more to see myself in this beautiful church among these old surroundings, and to find myself in the presence of so many old Cowes faces." First one member had laughed, and then they had all laughed except the vicar. He considered the story entirely irrelevant to the present occasion, for he beheld, more or less near to him, the whole beauty of the legal profession. Another story which he considered more relevant was a remark of Lord Palmerston's at a whitebait dinner at Greenwich, a festival now unhappily neglected. Having looked at a dish of appetising whitebait which lay on a table before him, and having taken a glance at the far less interesting countenances of his colleagues in the Cabinet, he had condescended to say: "Gentlemen, let us follow the excellent example of these wise little fishes; let us drink a great deal and say nothing."

After commenting with a good deal of levity on the affairs of the association, he pointed out a feature of organisation that seemed to him ambiguous. The association was quite ready to have the female sex at its Festival to relieve the gloom after dinner, and everyone knew that there were managing clerks who belonged to the neater sex; but he was told that not one of them was a member of the association. Ladies nowadays were not only solicitors but also members of the Bar, and the best speech in the report of last year's Festival Dinner had been made by a lady. Subject to that exception, he had nothing but admiration for his hosts. Thirty years ago he would have given anything for an opportunity of addressing an audience of managing clerks, though it was of little use to him now. They were the backbone of the legal profession. "Where," he asked, "would the solicitors be without their clerks? In Portugal-street! Where would the Bar be and the Bench? Don't," he continued, "be discouraged by that metaphorical expression 'the backbone of the profession.' I remember that a young friend of mine, who had been president of the Union, was making a speech in the House of Commons. He said" (Lord Hewart repeated the words in a magnificent Welsh accent), "'We Liberal Non-conformists are called the backbone of the Liberal Party. So we are; but is that any reason why we should always be left behind?' So please don't think I describe you as a backbone because you should always be left behind. I know quite well that you are too powerful to permit such a thing to happen."

He then related the sad history of the managing clerk who had been accustomed every day to walk from his home in Brixton to his principal's office in Lincoln's Inn. There had been a small and comfortable public-house in Carey Street, and every morning the clerk, before reaching his destination, had stepped in for a "go of rum," after which he had taken a clove from a little saucer on the counter and munched it on his way to Lincoln's Inn, where his first duty was to sit on the opposite side of a knee-hole desk and open the letters for the senior partner. So matters went on for thirty-five-and-a-half years, but then there came a morning when, having consumed his "go of rum," he found that there were no cloves. The lady behind the bar explained that the public-house was under new management and there were no more cloves, but suggested as a substitute a ring slice of onion as a very good thing for removing the scent of rum. The clerk therefore munched one as he made his way to his desk, but when the opening of the letters had gone on for five minutes the senior partner got up and manifested dissatisfaction. He exclaimed to his clerk, "John, you will have to find a new situation next month." John expostulated and asked the reason. The senior partner, after considerable hesitation, consented to explain, and said, "For thirty-five and a half years I have sat in this room every morning opening the letters in an atmosphere of rum and cloves. I never liked it, in fact I detested it. But I will see you damned if I will do it in an atmosphere of rum and onions!" Therefore, said Lord Hewart, he offered the Association the only advice he could be presumptuous enough to give them—"Beware of ring slices of onion."

In conclusion, Lord Hewart recalled the old toast "Woman—we can't get on without her"—and the irrelevant comment from the back of the hall, "Nor with her!" Managing clerks, he said, were in somewhat the same position; solicitors could not get on without them, nor perhaps with them. Coupling the toast with the name of the President, he recalled that thirty-four years ago (just before his own birth!) Mr. Vere had had the good fortune to enter the office of a distinguished solicitor who bore a distinguished name. Tonight he was entertaining a brilliant judge bearing the same name. It was thirty-four years since their President had entered the firm of Messrs. Peacock and Goddard.

THE PRESIDENT, in reply to the toast, said that the lectures held by the Association in the Lord Chief Justice's Court and in the Inns of Court during the winter months had been still better attended than in former years. It had also inaugurated a series of lectures on property legislation. The Council had felt that, ten years having elapsed since that mass and maze of legislation had come into force, the time was opportune for a review of how the Acts were working and the decided cases thereon. The Association had fortunately secured the services of Mr. A. F. Topham, K.C., and over 250 applications for seats had been received. He appealed to clerks and solicitors to give the young members of their staffs every help and opportunity of advancement.

The Attorney-General Sir THOMAS INSKIP, K.C., M.P., proposing the health of His Majesty's Judges, said that the country appreciated very much the manner in which His Majesty's judges, though occupying a position of so much distinction and importance, were able to mix with ordinary mortals and condescend to join in their humble pleasures. The public was beginning to take an interest in a play which would be staged in the House of Lords next week, but that was nothing to the interest it would take if the Judges' Conference were held with open doors. Everyone would like to hear the Lord Chief Justice giving instructions to the judges of the King's Bench Division as to their proper demeanour in court and how often it was appropriate to intervene in the arguments of counsel.

Mr. Justice GODDARD, in reply, remarked on how appropriate it was that the toast of His Majesty's Judges should have been preceded by a song entitled "Awake, Beloved." He knew nothing about Chancery judges except that they always rose at quarter-past three and retired to their rooms, there to busy themselves with feeding, or looking after, infants. In the King's Bench, the duties of the judges did not have this pleasant domestic side; their time was all taken up by motor-car cases in which no motor-car was ever driven at more than 25 miles an hour, and where every person who met with death or disaster at the cross-roads had sounded his horn three times and, hearing no reply, had proceeded on his way. County court judges had great variety in their work, which defeated the most acute of foreign observers. A distinguished foreign lawyer had come to England to learn English legal practice and procedure—one of those terribly learned people who wrote books which no one could understand, and who were called, not lawyers, but "jurists." The visitor had understood the proceedings of the High Court and of the Court of Appeal, and had even—which Mr. Justice Goddard frankly disbelieved—said that he could follow what was going on in the House of Lords, but he had been beaten by the county court. On that experience he had reported: "There was the judge; he sat in the middle. He turned to a little box on the right marked 'Plaintiff' and asked the man in it, 'What is your claim?' The man had answered, 'Bread sold and delivered.' The judge then turned to another box on the left and asked, 'What is your defence?' The other man answered, 'Never had the goods.' Then the judge asked, 'How many children have you?' and the answer was, 'I can't pay more than two shillings a week.'"

MR. JUSTICE CROSSMAN, also in reply, said that he had never had the honour of being appointed one of His Majesty's Counsel, but he had learned one thing in his long experience as a junior; never to follow his leader when he had done a case as well as it could be done. He must, however, answer some of his brother's reflections on the Chancery Division. Guardianship of wards of court was one of the most responsible part of the equity jurisdiction and one of the most anxious pieces of work Chancery judges had to do. He retained many happy memories of his seven years as devil to Sir Thomas Inskip. He had been intensely surprised to see a very large audience of comparatively young people listening attentively at seven o'clock to a lecture on restrictive covenants affecting land. He was more and more impressed with the realisation that the work of the law was really done by the solicitors' managing clerks. Everyone knew the amount of work that went to the preparation of a heavy case, and knew who did the work.

Mr. T. J. O'Connor, K.C., M.P., proposing the health of The Ladies, said that in preparation for facing an audience as critical as any he knew, not excluding the Court of Appeal and the House of Lords, he had conferred with Mr. Norman Birkett, who had replied to the toast two years ago, on what he should say. He had also assisted Mr. Birkett in the preparation of a simultaneous lecture to the Society of Comparative Law at Birmingham. Owing to inadvertence, Mr. Birkett was now in Birmingham proposing a toast of The Ladies to an astonished Society of Comparative Law and Mr. O'Connor, if he proceeded on his erroneous route, would in an instant be explaining to the ladies present the virtues of comparative law. He refrained from doing so, and instead recited a number of anecdotes.

Miss Lettice Vivian, in reply, said that she had little thought when she responded to this toast last year that in a year's time she would again have that privilege. Precedents should not be adhered to slavishly, although she desired that the general lines of this precedent might be followed, she hoped that in future years its actual form would not appear before them again. She could hardly have been chosen as an advocate, in view of the eminent members of her profession who were present, nor did her five months' experience as a married woman adequately qualify her to speak as a wife. She had been reluctantly driven to the conclusion that the President was a reader of Boswell and was putting into practice Dr. Johnson's remark, "Sir, a woman preaching is like a dog dancing; the wonder is not that she does it well, but that she does it at all!" She hoped that the artistes who had provided the other part of the entertainment would not object to her inclusion in their number. She congratulated those who had had a hand in the ordering of the very excellent dinner, and "almost was persuaded" that their wives had helped in it. If she were a man she could add to the laudatory remarks of Mr. O'Connor how charming the women were and how delightful their presence was. She was, however, forced to change the expression of that sentiment and testify how charming the festival was, and how delightful it was to be present.

Mr. B. R. Cecil proposed the health of the Chairman, who briefly replied.

Among those present were: Lord Hewart (Lord Chief Justice) and Lady Hewart, the Hon. Mr. Justice Atkinson, the Hon. Mr. Justice Crossman and Lady Crossman, the Hon. Mr. Justice Goddard, Sir Thomas Inskip (H.M. Attorney-General) and the Lady Augusta Inskip, Master E. A. Jelf, Master H. W. Jelf, Master F. A. H. Trumpler, Mr. Registrar A. Stiebel, Sir Robert Witt, Mr. Harold Christie, K.C., and Mrs. Christie, Mr. Charles Doughty, K.C., Mr. Raymond Evershed, K.C., Mr. Maurice Healy, K.C., Mr. Hector Hughes, K.C., Mr. A. T. Miller, K.C., and Mrs Miller, Mr. Fergus Morton, K.C., Mr. T. J. O'Connor, K.C. and Mrs. O'Connor, Mr. H. R. Barker, Mr. R. H. Bayford, Mr. C. J. A. Doughty, Mr. G. P. Eddy, Mr. F. L. C. Hodson, Mr. Valentine Holmes, Mr. S. E. Karminski, Mr. K. E. B. Kemp, Mr. W. Latey, Mr. R. F. Levy, Mr. Noel Middleton, Commander R. B. Miller, R.N., Mr. G. J. Paull, Mr. Kenneth R. Swan.

Incorporated Law Society of Liverpool.

ANNUAL GENERAL MEETING.

The 108th Annual General Meeting of the Incorporated Law Society of Liverpool was held in the Law Library on Friday, 29th November.

The meeting was very largely attended and included the President (Mr. F. C. Gregory) in the chair, Sir Charles Morton, Messrs. E. L. Billson, J. C. Bromfield, A. E. Chevalier, R. D. Cripps, E. V. Crooks, W. Glasgow, L. S. Holmes, J. G. Kenion, G. A. Solly, F. Weld, J. W. Cocks (Vice-President), Benj. Arkle (Hon. Secretary), and G. E. Castle (Hon. Treasurer).

The notice convening the meeting having been taken as read, the President delivered his address.

A perusal of the annual report, he said, showed that the finances of the Society were in a sound state and that the library had been maintained at the high standard for which it was well known. A bronze bust of William Gandy Bateson, founder of the firm that still bears his name, was presented to the Society by members of the family and placed in the library. While the membership of the Society beat last year's record there were still several of the more recently admitted solicitors who might become members, and he urged them all to put membership of the Society high up on their list of inevitable expenses.

Referring to the Law Reform (Married Women and Tort-feasors) Act, he said that, among other things, it removed an old friend, the restraint upon anticipation—another step in the emancipation of women. Whether they would regard the release of their husbands from liability for their torts and ante-nuptial contracts as emancipation was another question. The restraint was quite in accord with the dignity of the Victorian age—it imposed no stigma on the woman and no loss of prestige. It had been the means of preserving many a family nest-egg which might otherwise have been shared round the family, or some members of it, with merely ephemeral benefit. Some parents still had Victorian ideas and as, after this year, they would be unable to impose a restraint upon anticipation on their daughters by will or settlement, they might be driven to direct those daughters' interests to be held on protective trusts—a much less dignified status for the lady in question, carrying a *primâ facie* suggestion, possibly not misplaced, of unfitness to control her fortune.

Part II of the Act dealt with tort-feasors, and while aiming at much desired reforms promised to be fruitful of litigation in order to arrive at the meaning of many of its sections which seemed both obscure and involved—a state of affairs not perhaps altogether a disadvantage to the profession. This Act was an outcome of the deliberations of the Law Revision Committee on which it was noticeable that only a small percentage of the members were solicitors and there was no provincial solicitor at all. That was unfortunate, and it seemed strange that more of the men who had to work out these matters in practice should not be invited to give the benefit of their experience when reforms were being considered.

Some progress had been made with the inquiries as to whether the procedure of the courts could be made more convenient for all concerned, especially in the matter of the assizes. The happy solution was still to seek, and he suggested that it might be found sooner if the fear were not so prevalent in some quarters that, owing to the next case on the list having been settled at a late hour, a judge on assize might some day find himself with a half holiday. That did not sound a very terrible alternative to keeping solicitors and their clients and witnesses, all probably busy men, "standing to," perhaps for days, on the chance of their case being called on.

Efforts were being made, he said, to have the rules altered so as to make the costs of country solicitors attending trials in London a matter of right and not of discretion as at present, or if not altogether a matter of right at any rate allowable unless the Taxing Master saw good reason to the contrary. The client naturally wanted to have his own solicitor present in court, and it was extremely difficult to instruct London agents in sufficient detail by correspondence, to make the attendance of the country solicitor unnecessary. Further, London agents could not be expected to take the same interest in the matter as the client's own solicitor and certainly did not know the atmosphere surrounding the case. It had been pointed out that as the costs were almost always incurred, the proposed alteration would not increase the costs of litigation, but merely shift the incidence of that particular item. The matter had been urged without success on previous occasions, but on the principle of "Try, try, try again," their Society at the request of their friends in Manchester had agreed to join with them in asking the powers that be to receive a deputation from the two Societies on the subject.

A further step in the direction of compulsory registration of title had been taken during the year. Notwithstanding the rather special circumstances which prevailed in the County of Middlesex, their Society had been as opposed as ever to further extension of compulsory registration. It had been intimated however, that as the then Lord Chancellor had set his heart upon the extension to Middlesex, it would be a graceful and probably a tactful attitude not to oppose. Consequently, it had been decided to withdraw the proposed opposition of the Society on the terms stated in their report.

At the Provincial Meeting of The Law Society at Hastings in September, he said, a rather perturbing paper on the subject of registration of title had been read by the Dean of the Faculty of Law at Kings College, London. He strongly recommended anyone who had not done so already to read that paper (79 Sol. J. 736).

It was commonly levelled against solicitors that their opposition to compulsory registration was based on motives of self-interest. That was not the case. They could see the serious results to landowners of an extension of officialdom. When the only system of conveyancing was compulsory registration, the temptation to increase fees, delay and officialdom might prove too great to be resisted. The unfortunate landowner, or would-be landowner, would then sigh in vain for the good old days when the family solicitor alone looked after the "writings," even if the documents seemed lengthy and the language curious.

Commenting on so-called free conveyances, which were an outcome of the development of large areas for the smaller type of house, he said that a contract of a particularly gross type had been brought to the notice of the committee, prepared, he was sorry to say, by a firm of Liverpool solicitors. The contract had been reported to The Law Society with a

view to ascertaining whether it constituted an offence within the meaning of the Solicitors Act as tending to induce a purchaser to employ a solicitor other than his own solicitor. They would have seen with what result and further development was awaited with interest.

Dealing with the question of solicitors' fees, the President said it was to the credit of the profession that during the financial crisis of 1931 they had offered to reduce the war time and immediately post-war time increases, the first for some fifty years, that had been permitted in their charges. As a result, the increase of 33⅓ per cent.—in itself by no means commensurate with the rise in the expense of running a solicitor's office—had been reduced, as they knew, to 25 per cent. in the case of litigation and 20 per cent. in non-litigious matters—a reduction considerably greater than the otherwise universal 10 per cent. cut. Those reductions had been made on the understanding that when the cuts in other directions were restored the cuts in their fees also would be restored. True to its watchfulness for the interests of the profession, The Law Society a few months ago, after the other cuts had been restored, applied to the Lord Chancellor for the restoration of their increases. The result of that application was awaited with interest. The best way in which they could show their gratitude for the restoration, when it came, was to make a point of charging what they were admittedly entitled to charge and which in its heart of hearts he believed the public felt was not excessive.

He then referred to the draft rules under the Solicitors Act, 1933. These draft rules had not yet received the sanction of the new Master of the Rolls and were not, therefore, published in their report. One of the rules was designed to deal with the insidious evil of touting and undercutting, and they would remember the pronouncement on that subject that appeared in the "Law Society's Gazette" for March, 1934. Another rule would deal with unauthorised profit-sharing, and in this connection steps would be taken to regulate the activities of solicitors employed at a salary by large trading concerns. Still another rule would prohibit solicitors from acting for so-called legal aid societies which claimed a share of any damages received by a plaintiff as a result of their intervention. The draft rules were carefully considered by the Committee, and again at a meeting of the Associated Provincial Law Societies, and were unanimously agreed in principle. There were solicitors present at the latter meeting from all over England and Wales and the eagerness to have the rules made was striking. The draft rules, though admittedly not perfect, were a *bonâ fide* effort to deal with recognised grievances, and, when approved, would call for the loyal support of the profession.

Considerable time, he said, had been spent during the year in making the usual careful preliminary inquiries into applications for leave to take proceedings as a poor person. The success of this procedure depended entirely upon the goodwill of the legal profession. Many more solicitors were needed on the rota of those willing to conduct cases, or to act in that area as agents for solicitors in other areas.

Mr. Gregory concluded his address by saying that he had been proud to be President of their Society. It had been a wonderful experience, and he had learned a great deal. When he attended meetings such as those of the Associated Provincial Law Societies, and the Provincial Meeting of The Law Society itself, he learnt with a feeling almost of alarm and certainly of pride the position that Liverpool held in the country.

It was moved by the President, seconded by the Vice-President, and resolved: "That the report of the Committee, subject to any verbal alterations or modifications which the officers may find necessary, together with the statement of accounts, be approved and adopted."

It was moved by Sir Charles Morton, seconded by Mr. F. Weld and resolved: "That the thanks of the meeting be given to the President for his address, and that the same be printed and circulated as part of the report."

It was moved by Mr. W. Jackson, seconded by Mr. G. R. Cook and resolved: "That the thanks of the Society be given to the officers and members of the Committee for their services during the past year.

United Law Society.

A meeting of the United Law Society was held in the Middle Temple Common Room on Monday, the 9th December, at 7.45 p.m. Mr. R. S. Johnston proposed the motion: "That this House deplores the decision of the House of Lords in *Woolmington* v. *Director of Public Prosecutions* [1935] A.C. 462." Mr. I. H. Levy opposed. Messrs. Ashley (visitor), Hill, Kingston (visitor), Menzies and Vine-Hall also spoke. After Mr. Johnston had replied, the motion was put to the House and lost by four votes. There were eleven members and two visitors present.

The Law Society.

SPECIAL GENERAL MEETING.

A special general meeting of the members of The Law Society will be held in the Hall of the Society on Friday, the 31st January, 1936, at 2 p.m.

University of London Law Society.

The annual meeting of the University of London Law Society was held on Tuesday, 10th December, at University College, Gower-street.

The following were elected as officers for the ensuing year:—President: H. W. Betuel, Esq., LL.B., Barrister-at-Law; Treasurer: I. W. Davies, Esq.; Secretary: K. Chand, Esq.

The "Best Speaker's Cup" for the year was presented to A. Goodman, Esq., LL.B.

Solicitors' Benevolent Association.

The monthly meeting of the Directors was held at No. 60 Carey-street, London, W.C.2, on the 6th December, Mr. C. S. Bigg (Leicester) in the chair. The other Directors present were Sir E. Cook, C.B.E., Messrs. E. E. Bird, G. S. Blaker (Henley), P. D. Botterell, C.B.E., E. Bramley, LL.D. (Sheffield), A. J. Cash (Derby), T. G. Cowan, T. S. Curtis, G. A. Daw (Exeter), E. F. Dent, R. Epton (Lincoln), W. M. Francis (Cambridge), A. N. Hickley, G. Keith, C. G. May, A. R. Moon (Manchester), R. C. Nesbitt, H. F. Plant, W. N. Riley (Brighton), W. Sefton Clarke (Bristol), F. L. Steward (Wolverhampton), A. B. Urmston (Maidstone), and the Secretary. £1,372 was distributed in grants to necessitous cases; twenty-five new members were elected; other general business was transacted.

Law Students' Debating Society.

At a meeting of the Society held at The Law Society's Court Room, on Tuesday, 3rd December (Chairman, Mr. B. W. Main), the subject for debate was: "That the case of *Rose* v. *Ford* was wrongly decided." Mr. M. C. Batten opened in the affirmative, Mr. L. F. Sturge opened in the negative; Mr. W. M. Pleadwell seconded in the affirmative, Mr. J. P. R. Oakes seconded in the negative. The following members also spoke: Messrs. R. E. Selby, G. A. Russo, S. C. Baron, A. T. Wilson, P. W. Iliff, H. J. Baxter, S. Sansom and J. R. Campbell Carter. The opener having replied, and the chairman having summed up, the motion was carried by seven votes. There were twenty-four members and four visitors present.

The Hardwicke Society.

A meeting of the Society was held on Friday, 6th December, at 8.15 p.m. in the Middle Temple Common Room, the President, Mr. T. H. Mayers, in the chair. Mr. J. Yahuda moved: "That in the opinion of this House a class-less society is the only society which favours the survival of the race." Prince Leonid Lieven opposed. There also spoke, Mr. Caplan, Mr. Scholefield, Mr. Vyvyan Adams, M.P. (Ex-President), Mr. Douglas, Mr. J. A. Petrie (Hon. Treasurer), Mr. Walter Stewart and Mr. A. Newman Hall (Immediate Past President). The hon. mover having replied, the House divided, and the motion was lost by five votes.

Legal Notes and News.

Honours and Appointments.

The Colonial Office announces the following appointments and transfers in the Colonial Legal Service: Mr. E. J. DAVIES (Crown Counsel, Gold Coast), appointed Solicitor-General, Trinidad; Mr. G. E. NAIRAC (Procureur and Advocate-General) appointed Chief Judge, Mauritius.

Professional Announcements.

(2s. per line.)

GLOVER, SCOTT & APTHORPE WEBB, of 115, Park-street, W.1, and Terminal House, Grosvenor-gardens, S.W.1, announce that AUSTIN A. SCOTT retired from the firm on the 5th October, 1935. The remaining partners are continuing in practice and the name will remain unchanged.

SOLICITORS & GENERAL MORTGAGE & ESTATE AGENTS ASSOCIATION.—A link between Borrowers and Lenders, Vendors and Purchasers.—Apply, The Secretary, Reg. Office: 12, Craven Park, London, N.W.10.

Notes.

The Lord Chief Justice and Lady Hewart were the guests of honour of the Press Club of London at its "Ladies' Night" dinner last Saturday.

Sir Gervais Rentoul, K.C., senior West London magistrate, recently made a presentation to Mr. Henri Pierron, who has practised as a solicitor at the court for forty years.

Sir Henry Cautley, K.C., M.P., has resigned his appointment as Recorder of Sunderland. He has held the position since 1918, when he succeeded the first holder of the Recordership, the late Mr. Edward Shortt, K.C.

A resolution calling attention to "the lamentable lack of legal representation of the Metropolitan police in prosecutions for serious motoring offences" was unanimously passed last Wednesday at a sitting of the Croydon County Bench, of which Sir Arthur Spurgeon is chairman.

The annual dinner of the County of London Magistrates' Club took place at Grosvenor House, Park-lane, on the 5th December. Sir Percival Clarke (chairman of the County of London Quarter Sessions) presided. The speakers included Mr. J. D. Cassels, K.C., and Mr. Russell Davies, K.C.

Mr. Clyde Wilson, the South-Western magistrate, told a motorist who was summoned recently after knocking down a pedestrian at a crossing, that he had no case to answer because one of the Belisha beacon globes was missing, and technically there was no crossing. The summons was dismissed on payment of costs.

The decision of the Privy Council on the fusion of the Chartered Institute of Secretaries and the Incorporated Secretaries Association is not likely to be reached for some weeks. It has now been decided by the Incorporated Secretaries that the scheme, when sanctioned, shall become effective on 30th June, 1936, which will enable registered students and graduates to take the examinations under the existing syllabus in June next. The association's normal activities will continue until the date mentioned.

Sir Thomas Arthur Bramsdon, solicitor, of Southsea, for fifty-two years Coroner for Portsmouth, left estate of the gross value of £73,984, with net personalty £68,743. He left £500 to the N.S.P.C.C.; £500 to the Portsmouth branch of the Royal Surgical Aid Society; £500 to the Royal Portsmouth Hospital; £250 to the Portsmouth and Southern Counties Eye and Ear Hospital; £100 to the Portsmouth Schools Football League; and he directed his executors to offer his collection of stuffed birds and animals to the Corporation of Portsmouth, for exhibition to the public, and to expend a sum not exceeding £200 in setting them in order.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.	EMERGENCY ROTA.	APPEAL COURT No. 1.	GROUP I. MR. JUSTICE EVE. Non-Witness.	GROUP I. MR. JUSTICE BENNETT. Witness. Part I.
	Mr.	Mr.	Mr.	Mr.
Dec. 16	More	Jones	Blaker	*Hicks Beach
,, 17	Hicks Beach	Ritchie	Jones	*Blaker
,, 18	Andrews	Blaker	Hicks Beach	*Jones
,, 19	Jones	More	Blaker	Hicks Beach
,, 20	Ritchie	Hicks Beach	Jones	*Blaker
,, 21	Blaker	Andrews	Hicks Beach	Jones
	GROUP I. MR. JUSTICE CROSSMAN. Witness. Part II.	MR. JUSTICE CLAUSON. Witness. Part II.	GROUP II. MR. JUSTICE LUXMOORE. Witness. Part I.	MR. JUSTICE FARWELL. Non-Witness.
	Mr.	Mr.	Mr.	Mr.
Dec. 16	Jones	*More	*Ritchie	Andrews
,, 17	*Hicks Beach	Ritchie	*Andrews	More
,, 18	Blaker	*Andrews	*More	Ritchie
,, 19	*Jones	More	*Ritchie	Andrews
,, 20	Hicks Beach	*Ritchie	Andrews	More
,, 21	Blaker	Andrews	More	Ritchie

*The Registrar will be in Chambers on these days, and also on the days when the court is not sitting.

The CHRISTMAS VACATION will commence on Tuesday, the 24th day of December, 1935, and terminate on Monday, the 6th day of January 1936, inclusive.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 19th December, 1935.

	Div. Months.	Middle Price 11 Dec. 1935.	Flat Interest Yield. £ s. d.	‡Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	116	3 9 0	2 19 3
Consols 2½%	JAJO	86¾xd	2 17 8	—
War Loan 3½% 1952 or after	JD	106¼	3 5 10	3 0 6
Funding 4% Loan 1960-90	MN	117½	3 8 1	2 19 4
Funding 3% Loan 1959-69	AO	103	2 18 3	2 16 5
Victory 4% Loan Av. life 23 years	MS	116	3 9 0	3 0 5
Conversion 5% Loan 1944-64	MN	120½	4 3 0	2 3 3
Conversion 4½% Loan 1940-44	JJ	111¼	4 0 11	2 5 8
Conversion 3½% Loan 1961 or after	AO	107½	3 5 1	3 1 4
Conversion 3% Loan 1948-53	MS	105	2 17 2	2 10 3
Conversion 2½% Loan 1944-49	AO	102	2 9 0	2 4 7
Local Loans 3% Stock 1912 or after	JAJO	96xd	3 2 6	—
Bank Stock	AO	370½	3 4 9	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	87½xd	3 2 10	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	95½xd	3 2 10	—
India 4½% 1950-55	MN	114½	3 18 7	3 3 11
India 3½% 1931 or after	JAJO	97½xd	3 11 10	—
India 3% 1948 or after	JAJO	87xd	3 9 0	—
Sudan 4½% 1939-73 Av. life 27 years	FA	120	3 15 0	3 7 3
Sudan 4% 1974 Red. in part after 1950	MN	115½	3 9 3	2 14 7
Tanganyika 4% Guaranteed 1951-71	FA	115	3 9 7	2 15 4
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	109½xd	4 2 2	2 15 1
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	108xd	3 14 1	3 8 10
*Australia (C'mm'nw'th) 3¼% 1948-53	JD	103	3 12 10	3 9 3
Canada 4% 1953-58	MS	111	3 12 1	3 3 8
*Natal 3% 1929-49	JJ	100xd	3 0 0	3 0 0
*New South Wales 3½% 1930-50	JJ	100xd	3 10 0	3 10 0
*New Zealand 3% 1945	AO	99	3 0 7	3 2 6
Nigeria 4% 1963	AO	113	3 10 10	3 5 7
*Queensland 3½% 1950-70	JJ	101xd	3 9 4	3 8 2
South Africa 3½% 1953-73	JD	107	3 5 5	2 19 5
*Victoria 3½% 1929-49	AO	101	3 9 4	—
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	95xd	3 3 2	—
*Croydon 3% 1940-60	AO	100	3 0 0	3 0 0
Essex County 3½% 1952-72	JD	104½xd	3 7 0	3 3 1
Leeds 3% 1927 or after	JJ	92½xd	3 4 10	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	105xd	3 6 8	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	83	3 0 3	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	96	3 2 6	—
Manchester 3% 1941 or after	FA	96	3 2 6	—
*Metropolitan Consd. 2½% 1920-49	MJSD	100½	2 9 9	—
Metropolitan Water Board 3% "A" 1963-2003	AO	98	3 1 3	3 1 5
Do. do. 3% "B" 1934-2003	MS	98	3 1 3	3 1 5
Do. do. 3% "E" 1953-73	JJ	101	2 19 5	2 18 8
†Middlesex County Council 4% 1952-72	MN	114	3 10 2	2 18 10
† Do. do. 4½% 1950-70	MN	117	3 16 11	3 1 4
Nottingham 3% Irredeemable	MN	95	3 3 2	—
Sheffield Corp. 3½% 1968	JJ	105	3 6 8	3 4 10
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	114	3 10 2	—
Gt. Western Rly. 4½% Debenture	JJ	124½	3 12 3	—
Gt. Western Rly. 5% Debenture	JJ	136½	3 13 3	—
Gt. Western Rly. 5% Rent Charge	FA	135½	3 13 10	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	133½	3 14 11	—
Gt. Western Rly. 5% Preference	MA	119½	4 3 8	—
Southern Rly. 4% Debenture	JJ	113xd	3 10 10	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	111¼xd	3 11 9	3 7 0
Southern Rly. 5% Guaranteed	MA	134½	3 14 4	—
Southern Rly. 5% Preference	MA	119½	4 3 8	—

*Not available to Trustees over par. †Not available to Trustees over 115.
‡In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.